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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF COMMERCE

Effective upon publication in the FEDERAL REGISTER, paragraph (h) (3) of § 6.312 is amended as set out below.

§ 6.312 *Department of Commerce.* * * *

(h) *Bureau of Public Roads.* * * *

(3) Four Special Assistants to the Federal Highway Administrator.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 57-5540; Filed, July 8, 1957; 8:51 a. m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF LABOR

Effective upon publication in the FEDERAL REGISTER, paragraph (a) (7) is added to § 6.313 as set out below.

§ 6.313 *Department of Labor*—(a) *Office of the Secretary.* * * *

(7) One Confidential Assistant to the Under Secretary of Labor.

(R. S. 1753, sec. 2, 22 Stat. 403, 5 U. S. C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 57-5539; Filed, July 8, 1957; 8:51 a. m.]

PART 23—POLITICAL ACTIVITY OF STATE EMPLOYEES; RULES OF PRACTICE

APPEARANCE

Section 23.4 is amended as set out below.

§ 23.4 *Appearance.* (a) Any individual who is a party to any proceedings before the Commission may appear for himself or by an attorney at law. Any State or local agency may appear or be represented by an attorney at law.

(b) Any person who is a member in good standing of the bar of the Supreme Court of the United States or of the highest court of any State, territory, or of the District of Columbia, and is not under any order of any court suspending, enjoining, restraining, disbarring, or otherwise restricting him in the practice of law, may represent others before the Commission.

(c) When a person acting in a representative capacity appears in person or signs a paper in practice before the Commission, his personal appearance or signature shall constitute a representation to the Commission that under the provisions of this part and the law he is authorized and qualified to represent the particular party in whose behalf he acts. Further proof of a person's authority to act in a representative capacity may be required.

(d) No former officer, examiner, attorney, clerk or other former employee of this Commission shall appear as attorney or counsel for or represent any party in any proceeding resulting from any investigation, the files of which came to the personal attention of such former officer, examiner, attorney, clerk, or other former employee during the term of his service or employment with the Commission.

(Sec. 12, 54 Stat. 767, as amended; 5 U. S. C. 118k)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 57-5512; Filed, July 8, 1957; 8:46 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

Subchapter B—Farm Ownership Loans

[FHA Instruction 428.1]

PART 331—POLICIES AND AUTHORITIES

COUNTY AVERAGE VALUES OF EFFICIENT FAMILY-TYPE FARM-MANAGEMENT UNITS FOR FARM OWNERSHIP LOANS; WYOMING

On June 19, 1957, for the purposes of Title I of the Bankhead-Jones Farm

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FEDERAL REGISTER

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CFR SUPPLEMENTS

(As of January 1, 1957)

The following is now available:

Title 15 (Rev. 1956) ($5.00)

Previously announced: Title 3, 1956 Supp. ($0.40); Titles 4 and 5 ($1.00); Title 6 (Rev. 1956) ($6.00); Title 7, Parts 1–209 ($1.75), Parts 210–899 ($2.00), Parts 900–959 ($0.50), Part 960 to end ($1.25); Title 8 ($0.55); Title 9 ($0.70); Titles 10–13 ($1.00); Title 14, Part 400 to end ($1.00); Title 16 ($1.50); Title 17 ($0.60); Title 18 ($0.50); Title 19 ($0.65); Title 20 ($1.00); Title 21 ($0.50); Titles 22 and 23 ($1.00); Title 24 ($1.00); Title 25 ($1.25); Title 26, Parts 1–79 ($0.35), Parts 80–169 ($0.50), Parts 170–182 ($0.35), Parts 183–299 ($0.30), Part 300 to end, Ch. I, and Title 27 ($1.00); Title 26 (1954), Parts 1–169 (Rev. 1956) ($4.25), Parts 170–220 (Rev. 1956) ($2.25), Part 221 to end (Rev. 1956) ($4.75); Titles 28 and 29 ($1.50); Titles 30 and 31 ($1.50); Title 32, Parts 1–399 ($1.00), Parts 400–699 ($1.25), Parts 700–799 ($0.50), Parts 800–1099 ($0.55), Part 1100 to end ($0.50); Title 32A ($2.00); Title 33 ($1.50); Titles 35, 36, and 37 ($1.00); Title 38 (Rev. 1956) ($8.00); Title 39 ($0.50); Titles 40, 41, and 42 ($1.00); Title 43 ($0.60); Titles 44 and 45 ($1.00); Title 46, Parts 1–145 ($0.65); Titles 47 and 48 ($2.75); Title 49, Parts 1–70 ($0.65), Parts 91–164 ($0.60), Part 165 to end ($0.70); Title 50 ($0.60)

Order from Superintendent of Documents, Government Printing Office, Washington 25, D. C.

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Tenant Act, as amended, average values of efficient family-type farm-management units for the counties identified below were determined to be as herein set forth. The average values heretofore established for said counties, which appear in the tabulations of average values under § 331.17, Chapter III, Title 6 of the Code of Federal Regulations, are hereby superseded by the average values set forth below for said counties.

WYOMING

County	Average value	County	Average value
Albany	$40,000	Natrona	$40,000
Big Horn	40,000	Niobrara	40,000
Campbell	40,000	Park	40,000
Carbon	40,000	Platte	40,000
Converse	40,000	Sheridan	40,000
Crook	40,000	Sublette	40,000
Fremont	40,000	Sweetwater	40,000
Goshen	40,000	Teton	40,000
Hot Springs	40,000	Uinta	40,000
Johnson	40,000	Washakie	40,000
Laramie	40,000	Weston	40,000
Lincoln	40,000		

(Sec. 41, 50 Stat. 528, as amended; 7 U. S. C. 1015)

Dated: July 2, 1957.

[SEAL] K. H. HANSEN,
Administrator,
Farmers Home Administration.

[F. R. Doc. 57-5552; Filed, July 8, 1957; 8:53 a. m.]

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

Subchapter B—Loans, Purchases, and Other Operations

PART 464—TOBACCO

SUBPART—1957 TOBACCO LOAN PROGRAM

Statement with respect to the tobacco price support loan program for the 1957–58 marketing year—1957 crop—formulated by the Commodity Credit Corporation and Commodity Stabilization Service (hereinafter referred to respectively, as "CCC" and "CSS").

Sec.

464.901 Administration.
464.902 Level of loans.
464.903 Availability of price support.
464.904 Deductions from advances.
464.905 Interest rate and general provisions.
464.906 Adjustment of interest and disposition of overplus.
464.907 Maturity date.
464.908 Eligible producer.
464.909 Eligible tobacco.
464.910 Auction warehouse certification of flue-cured tobacco.

AUTHORITY: §§ 464.901 to 464.910 issued under sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 2, 59 Stat. 506, sec. 5, 62 Stat. 1072, secs. 101, 401, 403, 63 Stat. 1051, as amended, 1054, secs. 125, 211, 70 Stat. 198, 202; 7 U. S. C. 1312 note, 15 U. S. C. 714c; 7 U. S. C. 1441, 1421, 1423, 1813, 1860.

§ 464.901 *Administration.* (a) This program will be administered by the Tobacco Division, CSS, under the general direction and supervision of the Executive Vice President, CCC. The program will be carried out in the field by producer associations or other responsible organizations (hereinafter referred to as "associations") under contract with CCC, acting for groups of producers. CCC reserves the right to restrict the number of associations with which it will contract, and in so doing will select such associations as it deems necessary or desirable to effectuate the purposes of this program with a maximum of efficiency and economy of operation. The names of such associations may be obtained from the Tobacco Division, CSS, United States Department of Agriculture, Washington 25, D. C.

(b) CCC will make loans to associations which in turn will make advances to eligible producers either directly or through auction warehouses. Loans made to associations will include not only the initial loan value of the tobacco, but also advances for services performed in receiving, packing, storing, and marketing of tobacco pledged for loan. Associations will be authorized to enter into contracts for these services through the usual trade channels.

§ 464.902 *Level of loans.* (a) As required by statute, the level of price support to eligible producers will be 90 percent of the respective parity prices on those types of tobacco for which marketing quotas are in effect, except that fire-cured and dark air-cured (including Virginia sun-cured) tobacco will be supported at 75 percent and 66⅔ percent respectively, of the level for Burley tobacco. There is shown below the percentage of the parity price and the cents-per-pound loan level for each type or kind of tobacco (except Puerto Rican) based on the parity price as of March 31, 1957, which were announced on April 26 and May 24, 1957, as the minimum loan levels for the 1957 crop. The cents-per-pound loan levels will be computed again as of the beginning of the marketing year, which is July 1, 1957, for flue-cured, and October 1, 1957, for the other kinds of tobacco. Price support will be made available to eligible producers on the 1957 crop of each type or kind of tobacco at the higher of (1) the cents-per-pound level shown below, or (2) the level computed as of the beginning of the marketing year. Schedules of loan rates by grades for each type or kind of tobacco will be announced as supplements to this statement after the parity price as of the beginning of the marketing year is known. Flue-cured tobacco of varieties Coker 139, Coker 140, and Dixie Bright 244, irrespective of grade, will be supported at one-half the support rates for comparable grades of other varieties.

(b) The loan level for Puerto Rican tobacco, type 46, will be determined as of October 1, 1957, the beginning of the marketing year.

(c) Price support will not be available on Pennsylvania Seedleaf tobacco, type 41, because marketing quotas have been disapproved by producers.

	1957 percent of parity level	1957 minimum (cents-per-pound) loan level
Flue-cured, types 11–14	90	50.7
Burley, type 31	90	51.5
Fire-cured, types 21–23	75 percent of Burley rate.	38.6
Dark air-cured, types 35–36.	66⅔ percent of Burley rate.	34.3
Virginia sun-cured, type 37.	66⅔ percent of Burley rate.	34.3
Maryland, type 32	90	47.8
Puerto Rican, type 46	(1)	(1)
Cigar binder	90	
Connecticut Broadleaf, type 51.		53.3
Connecticut Havana Seed, type 52.		48.5
Cigar filler and binder	90	
Ohio filler, types 42–44		23.2
New York and Pennsylvania Havana Seed, type 53.		23.3
Southern Wisconsin, type 54.		23.3
Northern Wisconsin, type 55.		29.9

[1] The percent of parity and the cents-per-pound loan level for the 1957 crop of Puerto Rican tobacco, type 46, will be announced based on the supply and the parity price as of October 1, 1957.

§ 464.903 *Availability of price support.* Price support to eligible producers will be made available in the following manner:

(a) *Auction market area.* The producer will deliver the tobacco to an auction warehouse in the usual manner. The producer generally will receive the advances from the warehouseman for any tobacco to be placed under loan by the association at the time the warehouseman settles with the producer for the entire quantity of the producer's tobacco that has been displayed for inspection and offered for sale on any one day's auction market. The warehouseman, in turn, will be reimbursed by the association with funds borrowed from CCC.

(b) *Non-auction market area.* Producers in non-auction market areas will deliver tobacco to central receiving points designated by the appropriate association. After the tobacco has been graded by U. S. D. A. inspectors, the producer will receive the advance directly from the association for any tobacco to be pledged for loans.

(c) *Period of loans.* No advances will be made to producers or tobacco tendered for loan prior to or after the dates set forth below:

	Earliest date	Latest date
Flue-cured	July 1, 1957	Feb. 28, 1958
Burley	Nov. 1, 1957	Apr. 30, 1958
Fire-cured	do	Do.
Dark air-cured	do	Do.
Virginia sun-cured	do	Do.
Maryland	Apr. 1, 1958	Oct. 1, 1958
Puerto Rican	Feb. 1, 1958	Sept. 30, 1958
Cigar filler and binder	Sept. 1, 1957	July 31, 1958

§ 464.904 *Deductions from advances.* (a) The associations will be required to bear a portion of the overhead costs in connection with the loan operation. For this purpose, the associations in the auction marketing areas will be authorized to charge the producer a fee of 12 cents per hundred pounds and such other deductions as may be authorized or approved by CCC. Such charges may be collected by a deduction from the advance made to the producer on his tobacco or by arrangements with the auction warehousemen under which he will collect such charges and remit to the association. In the non-auction market areas, the fee will be established at a rate commensurate with the relative cost of the services performed by the association.

(b) If any producer on a farm is indebted to the United States and such indebtedness is listed on the county debt register, the Government will effect collection of the amount of the indebtedness by set-off from the amount of price support advance due the producer in the following manner: Any within-quota marketing card issued for such farm in accordance with the applicable regulations issued by the Secretary of Agriculture with respect to marketing quotas for the 1957–58 marketing year will bear the notation "Indebted to U. S." on the front cover thereof and on the County Office copy of each memorandum of sale, and the name of the debtor and the amount of the indebtedness will be shown on the inside back cover of the marketing card. The acceptance and use of a within-quota marketing card bearing a notation and information of indebtedness to the United States by the producer named as debtor on such card will constitute an authorization by such producer to any tobacco warehouseman or association to pay to the United States the price support advance due the producer to the extent of his indebtedness set forth on such card but not to exceed that portion of the price support advance remaining after deduction of usual warehouse and authorized price support charges and amounts due prior lienholders. The acceptance and use of a within-quota marketing card bearing a notation and information of indebtedness to the United States will not constitute a waiver of any right of the producer to contest the validity of such indebtedness by appropriate administrative appeal or legal action. Under the marketing quota regulations issued by the Secretary, if the producer named as debtor on the card objects to the issuance or after issuance to the use, of a within-quota marketing card bearing the notation and information of indebtedness to the United States thereon, he may elect to receive an excess marketing card showing "zero percent" penalty, in which event the producer will be ineligible for price support loans.

§ 464.905 *Interest rate and general provisions.* The loans made to the associations will bear interest at the rate of 3½ percent per annum and be nonrecourse both as to principal and interest except in the case of misrepresentation, fraud, or failure to carry out the terms of the loan contract. Tobacco loses its identity as to original ownership through commingling in the packing process, and individual producers may not redeem their tobacco once it has been pledged for loan. All proceeds of sales of the loan collateral will be applied to the loan account until the loan is repaid in full.

§ 464.906 *Adjustment of interest and disposition of overplus.* The contractual arrangement between CCC and any association may include provisions under which CCC will adjust the interest rate as outlined in paragraph (c) of this section and the association will apply, as directed by CCC, one-half of the "overplus" from any crop year loan to the indebtedness on other crop year loans. This arrangement will be available only to those associations which include under the arrangement all CCC loans outstanding at the time the 1957 crop loan is included.

(a) *Definition of overplus.* "Overplus" is the balance remaining from the sales proceeds of the loan tobacco, after deducting the amount of the loan plus all handling charges, operating costs, and interest.

(b) *Disposition of overplus.* For those associations which agree to apply one-half of the overplus to other crop year loans, the remaining one-half of the overplus shall constitute "net gains", and for those associations which do not agree to apply one-half of the overplus to other crop year loans, the entire overplus shall constitute "net gains". Net gains shall be distributed in cash by the association to the producers who placed the tobacco under loan unless other disposition is approved by CCC.

(c) *Adjustment of interest rate.* In consideration of any association's agreement to apply one-half of the 1957 crop overplus to the CCC loan indebtedness of other crop years, the 1957 crop interest rate shall be adjusted annually, beginning as of July 1, 1958, for flue-cured loans and as of October 1, 1958, for loans on other kinds of tobacco, to the rate established by CCC as applicable to price support loans on the current crops, minus one percent per annum: *Provided,* That if such adjusted interest rate is determined by CCC to be less than the average rate of interest applicable to CCC's borrowings from the Treasury, the amount of interest accrued at such adjusted interest rate shall be increased at the end of the marketing year or at the time of final repayment of the loan to the amount which would have accrued at the average interest rate applicable to CCC's borrowings from the Treasury during such period.

§ 464.907 *Maturity date.* Loans made under the program will mature on demand.

§ 464.908 *Eligible producer.* (a) An eligible producer is one for whom a within-quota marketing card has been issued under the applicable regulations issued by the Secretary of Agriculture with respect to tobacco marketing quotas for the 1957–58 marketing year. (In general, the regulations in this subpart provide for the issuance of a within-quota marketing card where the tobacco acreage harvested for each kind of tobacco produced on the farm is not in excess of the applicable acreage allotment established under the marketing quota program for such farm, except that a within-quota marketing card is not issued where the planted acreage of any kind of tobacco exceeds the farm acreage allotment established therefor unless a request for disposition of the excess acreage is filed promptly. In the case of flue-cured tobacco, two types of within-quota marketing cards will be used: a "white" within-quota marketing card will signify that the tobacco produced on the farm for which such marketing card was issued is eligible for full price support, and a "blue" within-quota Limited Support marketing card will signify that the tobacco produced on the farm for which such card was issued is eligible for price support on a grade basis at one-half of the regular price support rate. The regulations further provide that, if any producer on a farm is indebted to the United States, any within-quota marketing card issued for such farm shall bear the notation "Indebted to U. S." and information with respect to such indebtedness, provided that, if the producer objects to the issuance, or after issuance to the use, of the within-quota marketing card bearing such notation and information, an excess marketing card showing "zero percent" penalty shall be issued for such farm. Also, an excess marketing card (ineligible for price support loans) shall be issued in any case where tobacco is

produced on newly irrigated or drained land which was not used for the production of tobacco prior to May 28, 1956, and which is within any Federal irrigation or drainage project (as defined in Section 211 of the Agricultural Act of 1956) authorized on or after May 28, 1956; or where tobacco is produced on land reclaimed by a flood-control project authorized on or after May 28, 1956; or where tobacco is produced on land owned by the Federal Government in violation of the provisions of a lease restricting the production of tobacco.)

(b) As Puerto Rican tobacco is not under U. S. marketing quotas, all producers of this type of tobacco are considered eligible producers for the purpose of this program.

§ 464.909 *Eligible tobacco.* Eligible tobacco shall be U. S. and Puerto Rican tobacco (as defined in the Agricultural Adjustment Act of 1938, as amended) of the 1957 crop which (a) has been properly identified in accordance with applicable tobacco Marketing Quota Regulations on a valid memorandum of sale issued from a "Within Quota" Marketing Card or a Within Quota Limited Support Marketing Card, where marketing quotas are in effect; (b) has been delivered to the association by the producer prior to sale to any other person; (c) is in sound and merchantable condition; (d) is of a type for which a loan level is provided in § 464.902; (e) is free and clear of any and all liens and encumbrances; (f) was not produced on newly irrigated or drained land which is within any Federal irrigation or drainage project (as defined in section 211 of the Agricultural Act of 1956) authorized on or after May 28, 1956, unless such land was used for the production of tobacco prior to May 28, 1956; (g) was not produced on land reclaimed by a flood-control project authorized on or after May 28, 1956; and (h) was not produced on land owned by the Federal Government in violation of the provisions of a lease restricting the production of tobacco.

§ 464.910 *Auction warehouse certification of flue-cured tobacco.* Auction warehouses through which price support is made available to producers of flue-cured tobacco will be required to certify all tobacco (including resale tobacco) offered for sale at auction which is determined to be of varieties eligible for full price support. Such certification by the auction warehouse will be accomplished through the use of a "certified" basket ticket on (a) any basket of tobacco which at the time of auction sale by the producer will be identified by a valid memorandum of sale issued from a Within-Quota (white) Marketing Card or from an Excess (red) Marketing Card stamped "Acceptable Varieties", or (b) any basket of "resale" tobacco (that is, tobacco which has been previously sold by the producer at auction or otherwise to another person) which was (1) identified at the time of sale by the producer on a valid bill of non-warehouse sale from a Within-Quota (white) Marketing Card or from an Excess (red) Marketing Card stamped "Acceptable Varieties", or (2) identified at time of purchase at auction by a "Certified" basket ticket. All other tobacco offered for sale at auction will be identified by a distinguishably different type of basket ticket.

Issued this 3d day of July 1957.

[SEAL] WALTER C. BERGER,
Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 57-5548; Filed, July 8, 1957; 8:53 a. m.]

Subchapter D—Regulations Under Soil Bank Act

PART 485—SOIL BANK

SUBPART—CONSERVATION RESERVE PROGRAM

EVASION OF MAXIMUM PAYMENT LIMITATION AND UNAUTHORIZED USE OF CONSERVATION RESERVE

Pursuant to the authority vested in the Secretary of Agriculture pursuant to the Soil Bank Act (70 Stat. 188) the regulations for the conservation reserve program issued August 16, 1956 (21 F. R. 6289), as amended, are hereby amended as follows:

1. Section 485.164 is amended by adding at the end thereof: "A family trust created on or after August 16, 1956, will be considered a scheme or device to evade the provisions of this section if it results in the settlor and beneficiaries of the trust receiving in the aggregate annual payments under the conservation reserve program for any year of the contract period in excess of $5,000. For purposes of this provision, a family shall include husband, wife, children, their husbands and wives, and other members of the immediate household; and payments to a trustee shall be regarded as payments to the beneficiaries of the trust."

2. Section 485.157 is amended by adding a new paragraph (k), as follows:

(k) *Unauthorized use of conservation reserve.* Effective with respect to land first designated as conservation reserve for 1958 or a subsequent year, the use of any part of the conservation reserve for nonagricultural enterprises (including but not limited to public golf courses, race tracks, amusement parks, airfields, or commercial hunting or fishing enterprises) shall constitute a violation of the contract. For the purposes of this paragraph, hunting and fishing shall be considered a commercial enterprise where the steps considered to be normal to the development of a commercial enterprise are taken, e. g., establishment of specific charges and provision of facilities or services in connection with hunting or fishing in accordance with usual business practices. A farmer who charges an occasional fee for hunting or fishing on the conservation reserve will not be considered as using such land for a commercial enterprise unless he takes such steps as would be considered to be the actual establishment of a commercial hunting or fishing preserve.

(Sec. 124, 70 Stat. 198; 7 U. S. C. 1812)

Done at Washington, D. C., this 3d day of July 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 57-5545; Filed, July 8, 1957; 8:52 a. m.]

PART 485—SOIL BANK

SUBPART—VIOLATIONS PROCEDURE

MISCELLANEOUS AMENDMENTS

Part 485 is amended by adding to Subpart—Violations Procedure thirteen new sections; and by amending § 485.280 as set forth below.

1. The first sentence of § 485.280 is amended (a) by striking out the words "or Conservation Reserve Contract"; (b) by striking out in the parenthetical matter the words "or contract"; and (c) by adding immediately following the parenthetical matter the language "or which provides for termination of a conservation reserve contract".

2. Sections 485.293 to 485.294k are added as follows:

AMOUNT OF FORFEITURE OR REFUND CONSERVATION RESERVE PROGRAM

Sec.

485.293 Acreage in excess of permitted acreage.
485.294 Harvesting or grazing the conservation reserve.
485.294a Unauthorized use of water stored on the conservation reserve acreage.
485.294b Failure to prevent spread of noxious weeds.
485.294c Failure to establish and maintain vegetative cover and other practices.
485.294d Breaking out noncropland.
485.294e Misuse of purchase orders or conservation materials or services.
485.294f Provisions relating to treatment of tenants and sharecroppers.
485.294g Unauthorized use of conservation reserve.
485.294h Filing false claims for payment.
485.294i Scheme or device to evade maximum payment limitation.
485.294j Termination of contracts for violations.
485.294k Liability for interest.

AUTHORITY: §§ 485.293 to 485.294k issued under sec. 124, 70 Stat. 198; 7 U. S. C. 1812. Interpret or apply secs. 107, 121, 122, 70 Stat. 191; 7 U. S. C. 1809, 1810, 1831.

§ 485.293 *Acreage in excess of permitted acreage.* If for any year (a) the acreage permitted under the contract to be devoted to Soil Bank base crops is zero and any acreage is devoted to such crops, or (b) the acreage permitted under the contract to be devoted to such crops is more than zero and the acreage devoted to such crops exceeds such permitted acreage by more than one acre or three per centum of the permitted acreage, whichever is larger, the total amount of annual payment for the farm for such year and the entire amount of cost-sharing for carrying out conservation reserve practices on the farm for such year paid or payable to the operator and each other producer on the farm shall be forfeited or refunded.

§ 485.294 *Harvesting or grazing the conservation reserve.* (a) If any crop (including Christmas trees, ornamentals, or Christmas greens) is harvested from the conservation reserve except wildlife and other natural products of such acreage which do not increase supplies of feed for domestic animals and timber in accordance with sound forestry management as determined by the county committee, or if there is unauthorized grazing of the conservation reserve, the total annual payment for the farm for the year in which the crop was harvested or for the year in which the grazing occurred, plus the cost-sharing for carrying out conservation practices on the particular field, as identified in the contract, on which the violation occurred, whether or not the cost-sharing was for the year in which the violation occurred, paid or payable to the operator and each other producer on the farm shall be forfeited or refunded.

(b) For the purposes of this section, grazing of the conservation reserve by wildlife shall not be considered a violation of the contract; and accidental grazing by domestic animals and poultry on the conservation reserve shall not be considered a violation of the contract provided the producer takes reasonable precautions to prevent repeated recurrences of such grazing.

§ 485.294a *Unauthorized use of water stored on the conservation reserve.* If any water from a water storage facility constructed as a conservation reserve practice is used for irrigation except to irrigate land in the designated conservation reserve, the entire amount of cost-sharing for carrying out such water storage practice, whether or not the practice was carried out during the year in which the violation occurred, plus the amount of the entire annual payment attributable to that part of the conservation reserve on which the particular water storage facility is located for the year in which the violation occurred paid or payable to the operator and each other producer on the farm shall be forfeited or refunded.

§ 485.294b *Failure to prevent spread of noxious weeds.* If there is a failure to take steps prescribed by the county committee to prevent a field in the conservation reserve from becoming a source of spreading noxious weeds, the entire amount of the annual payment plus the entire amount of cost-sharing for carrying out practices on the field, as identified on the contract, payable or paid to the operator and to each other producer on the farm for the year in which such violation occurred shall be forfeited or refunded.

§ 485.294c *Failure to establish and maintain vegetative cover and other practices.* (a) If a satisfactory protective cover or other approved practice is not established or reestablished in accordance with applicable specifications and within the time prescribed by the county committee, the annual payment for the year in which such satisfactory protective cover or other approved conservation practice is not established or reestablished paid or payable to the operator and each other producer on the farm shall be forfeited or refunded, and no further annual payment will be made until the required conservation practice has been established or reestablished. If satisfactory protective cover or other approved conservation practice is not established or reestablished during the contract period, all annual and cost-sharing payments made under the contract shall be refunded.

(b) If the protective cover or other approved conservation practice is not maintained and such failure to maintain was the result of failure to use reasonable care, all rights to the annual payments for the farm for the year in which such failure occurred and for each future year of the contract period paid or payable to the operator and each other producer on the farm shall be forfeited or refunded, until such time as the protective cover or other approved conservation uses are reestablished. In addition, all cost-share payments payable or paid in connection with the establishment of such practice to the operator and each other producer on the farm shall be forfeited or refunded unless such practice is reestablished within the time prescribed by the county committee.

§ 485.294d *Breaking out noncropland.* If at any time during the contract period land on the farm which was not classified as cropland at the time the contract was entered into is broken out unless the breaking out of such land was approved by the county committee as a good farming practice and the identical acreage or an equal acreage of cropland on the farm (exclusive of the acreage reserve and conservation reserve) is restored to permanent vegetative cover, the entire amount of the annual payment for the year in which the violation occurred payable or paid to the operator and to each other producer on the farm shall be forfeited or refunded.

§ 485.294e *Misuse of purchase orders or conservation materials or services.* If a producer uses a purchase order issued to him for conservation materials or services under the conservation reserve program for a purpose other than that for which it was issued, or uses any conservation material or service furnished under the conservation reserve program for any purpose other than that for which it was furnished, he shall forfeit or refund an amount equal to the cost of the purchase order borne by the Federal Government, or that part of the cost of the material or service borne by the Federal Government, as the case may be.

§ 485.294f *Provisions relating to treatment of tenants and sharecroppers.* (a) If a tenant or sharecropper is not afforded an opportunity to participate under the contract in proportion to the number of acres in his producer unit, the operator and each other producer other than the tenant or sharecropper who is denied such opportunity to participate shall forfeit or refund the entire amount of the annual payments paid or payable to them for the first year of the contract period and for each subsequent year of such period for which the tenant or sharecropper is deprived of the opportunity to so participate under the contract, plus the entire amount of cost-sharing for carrying out practices under the contract during the period in which the tenant or sharecropper is deprived of an opportunity to so participate, paid or payable to them under the contract.

(b) If the number of tenants and sharecroppers on the farm or the size of their producer units was reduced in anticipation of or because of participation in the Soil Bank Program (Conservation Reserve or Acreage Reserve Program), the entire amount of the annual payment for the year in which such reduction occurred and for each subsequent year of the contract period during which such reduction is continued, plus the entire amount of cost-sharing for carrying out practices under the contract during the period in which reduction continues, paid or payable to the operator and each other producer on the farm shall be forfeited or refunded.

(c) If there exists between the operator or landlord and a tenant or sharecropper any lease, contract, agreement, or understanding, unfairly exacted or required by the operator or landloard and entered into in contemplation of the signing of any contract hereunder, or if after signing of the contract, the operator or landloard enters into any lease, contract, agreement or understanding the effect or purpose of which is (1) to cause the tenant or sharecropper to pay over to the landlord or operator any annual payment or cost-sharing to be paid to him under the contract; or (2) to change the status of any tenant or sharecropper in order to deprive him of any part of the payment or cost-sharing or any other right or privilege of his under the contract to which his actual status with respect to the land prior thereto would have entitled him; or (3) to reduce the size of the tenant's or sharecropper's producer unit in contemplation of the signing of the contract; or (4) to increase the rent to be paid by the tenant or decrease the share of any crop or its proceeds to be received by the sharecropper, the entire amount of the annual payment for, plus the entire amount of cost-sharing for carrying out practices during, the first year during which the violation occurred and for each subsequent year of the contract period during which such lease, contract, agreement, or understanding remains in existence, paid or payable to the operator and to each other producer on the farm signing the contract who was a party to such lease, contract, agreement, or understanding other than tenants or sharecroppers adversely affected shall be forfeited or refunded.

(d) If a device or scheme has been adopted for the purpose of depriving any tenant or sharecropper of his compensation (annual payment or cost-sharing) or any other right under the contract, the entire amount of the annual payment for, and cost-sharing for carrying out practices during, the first year in which the device or scheme was used and each subsequent year of the contract period in which such device or scheme is used, payable or paid to the operator and to each other producer on the farm

other than tenants or sharecroppers adversely affected shall be forfeited or refunded.

(e) In any case where any producer is required to forfeit or refund any compensation under paragraphs (a) through (d) of this section, and the State committee determines that a tenant or sharecropper is entitled to any part of such compensation, the amount of compensation due such tenant or sharecropper shall be paid to him out of the funds forfeited or refunded by the operator or other producer.

§ 485.294g *Unauthorized use of conservation reserve.* If any part of the land first designated as conservation reserve for 1958 or a subsequent year is used for non-agricultural enterprises (including but not limited to public golf courses, race tracks, amusement parks, airfields, or commercial hunting or fishing enterprises), that part of the annual payment attributable to the conservation reserve acreage on which the violation occurred for the year in which the violation occurred and each subsequent year of the contract period during which the violation continues, plus the cost-sharing for carrying out conservation practices on such conservation reserve acreage, whether or not the cost-sharing was for the year in which the violation occurred, paid or payable to the operator and each other producer on the farm shall be forfeited or refunded.

§ 485.294h *Filing false claim for payment.* Any producer signatory to the contract who files a claim for an annual or cost-share payment to which he knows he is not entitled under the provisions of the contract and applicable regulations, including a claim for a cost-share payment for practices not carried out or for practices carried out in such a manner that they do not meet the required specifications therefor, shall forfeit or refund the entire cost-share payment for which the false claim was filed paid or payable to such producer. In the event of a false claim for an annual payment that part of the annual payment paid or payable to the producer(s) falsifying such claim shall be forfeited or refunded.

§ 485.294i *Scheme or device to evade maximum payment limitation.* If any producer adopts, or participates in adopting, any scheme or device, including the dissolution, reorganization, revival, formation, or use of any corporation, partnership, estate, trust, or by any other means, designed to evade, or which has the effect of evading, the maximum payment limitation on annual payments, such producer shall forfeit or refund the entire amount of the annual payment payable or paid to him for each year during which the scheme or device continues in effect.

§ 485.294j *Termination of contracts for violations.* In addition to the forfeitures and refunds provided for in § 485.293 to § 485.294i, inclusive, in connection with violations of contracts, a contract shall be terminated if violations covered by §§ 485.293, 485.294, 485.294a, 485.294b, 485.294c, 485.294d, 485.294f, or 485.294g have occurred for two consecutive years of the contract period. Upon such termination, the entire amount of the cost-share payment and all annual payments paid or payable to the operator and each other producer on the farm shall be forfeited or refunded.

LIABILITY FOR INTEREST

§ 485.294k *Liability for interest.* The producers liable for refunds as provided in § 485.284 through § 485.294j shall be liable also for interest at the rate of six per centum per annum from the date of written notice to the producer of the amount of the refund due, except that there shall be no interest due on any amount of such refund which is remitted to the office of the county committee within 30 days from the date of such notice.

Issued at Washington, D. C., this 3d day of July 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 57-5546; Filed, July 8, 1957; 8:53 a. m.]

TITLE 7—AGRICULTURE

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

Subchapter G—Determination of Proportionate Shares

[Sugar Determination 850.53, Rev., Supp. 2]

PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

UTAH PROPORTIONATE SHARE AREAS AND FARM PROPORTIONATE SHARES FOR 1957 CROP

Pursuant to the provisions of the Determination of Proportionate Shares for Farms in the Domestic Beet Sugar Area, 1957 Crop, Rev. (22 F. R. 631), the Agricultural Stabilization and Conservation Utah State Committee has issued the bases and procedures for dividing the State into proportionate share areas and establishing individual farm proportionate shares from the allocation of 34,175 acres established for Utah by the Determination. Copies of these bases and procedures are available for public inspection at the office of such committee at 222 S. W. Temple Street, Salt Lake City, Utah, and at the offices of the Agricultural Stabilization and Conservation Committees in the sugar beet producing counties of Utah. These bases and procedures incorporate the following:

§ 850.55 *Utah*—(a) *Proportionate share areas.* Utah shall be divided into six proportionate share areas as served by beet sugar companies. These areas shall be designated as follows: Garland, West Jordan-Gunnison, Cache, Ogden, Layton and Holly. Acreage allotments for these areas shall be computed by applying to the planted sugar beet acreage record for each area a weighting of 75 percent to the average acreage for the crops of 1950 through 1954, as a measure of "past production", and a weighting of 25 percent to the largest acreage of any of the crops of 1950 through 1954, as a measure of "ability to produce", with pro rata adjustments to a total of 34,175 acres. Acreage allotments computed as aforestated are established as follows: Garland Area—7,904 acres; West Jordan-Gunnison Area—15,738 acres; Cache Area—4,229 acres; Ogden Area—2,284 acres; Layton Area—3,180 acres; and Holly Area—840 acres.

(b) *Set-asides of acreage.* Set-asides of acreage shall be made from area allotments as follows:

(1) *For new producers.* Garland Area—176.1 acres; West Jordan-Gunnison Area—498.5 acres; Cache Area—140.0 acres; Ogden Area—31.2 acres; Layton Area—165.5 acres; and Holly Area—57.7 acres.

(2) *For appeals.* Garland Area—83.0 acres; West Jordan-Gunnison Area—150.7 acres; Cache Area—44.0 acres; Ogden Area—24.0 acres; Layton Area—45.0 acres; and Holly Area—9.0 acres.

(3) *For making adjustments in initial shares.* Garland Area—371.7 acres; West Jordan-Gunnison Area—0 acres; Cache Area—288.4 acres; Ogden Area—219.0 acres; Layton Area—260.0 acres; and Holly Area—0 acres.

(c) *Requests for proportionate shares.* A request for each farm proportionate share shall be filed at the local ASC County Office on Form SU-100, Request for Sugar Beet Proportionate Share. The request shall be signed and filed by the farm operator (the producer who controls and directs the operations on the farm) or owner (or legal representative) and shall be filed on or before the closing date for such filing as provided in § 850.53.

(d) *Establishment of individual farm proportionate shares*—(1) *For old producers*—(i) *Farm bases.* The farm base for each farm in each proportionate share area shall equal the "1956-crop share established for the farm". The term "1956-crop share established for the farm" shall mean either the 1956-crop share established for the farm, including adjustments made under appeals but excluding any downward adjustments made because the 1956-crop acreage planted on the farm was less than the share originally established for the farm and any upward adjustment made because the 1956-crop shares of other farms were not fully planted, or the initial 1956-crop share which would have been established pursuant to Sugar Determination 850.30, as amended, and Supplement 11 thereto (21 F. R. 6809) if it has been requested by the 1957 farm operator, except as a 1956-crop new producer.

(ii) *Initial proportionate shares.* Initial proportionate shares shall be established from the farm bases in each proportionate share area as follows: For farms for which the respective requested acreages are equal to or less than their farm bases, the initial shares shall coincide with the requested acreages, and for all other farms, initial shares shall be computed by prorating to such farms in accordance with their respective bases, the area allotments less the prescribed set-asides and the total of the initial shares established in accordance with the preceding part of this subparagraph.

(iii) *Adjustments in initial shares.* Within the acreage available from the set-aside for adjustments, and from acreage of initial shares in excess of requested acreages in each proportionate share area, adjustments shall be made in initial farm proportionate shares for old producers so as to establish a proportionate share for each farm which is fair and equitable as compared with proportionate shares for all other farms in the area by taking into consideration availability and suitability of land, area of available fields, availability of irrigation water, adequacy of drainage, availability of production and marketing facilities, and the production experience of the operator.

(2) *For new producers.* Within the acreage set aside for new producers in each proportionate share area, proportionate shares shall be established in an equitable manner for farms to be operated during the 1957 crop year by new producers (as defined in § 850.53) by taking into consideration the availability and suitability of land, area of available fields, availability of irrigation water, adequacy of drainage, availability of production and marketing facilities and the production experience of the operator.

(3) *Adjustments under appeals.* Within the acreage set aside for making adjustments under appeals and any other acreage remaining unused in each proportionate share area, adjustments shall be made in proportionate shares under appeals to establish fair and equitable farm shares in accordance with the provisions of §850.53 applicable to appeals.

(4) *Adjustments because of unused acreage.* To the extent of acreage available within the allotment for each proportionate share area from underplanting and failure to plant, and unused acreage from set-asides and other sources, adjustments shall be made in farm proportionate shares during the 1957-crop season. Insofar as practicable, acreage remaining unused in any area shall be reallotted to the other areas wherein it may be used.

(5) *Notification of farm operators.* The farm operator shall be notified concerning the proportionate share established for his farm on form SU–103, Notice of Farm Proportionate Share—1957 Sugar Beet Crop, even if the arceage established is "none", and in each case of approved adjustment, the farm operator shall be notified regarding the adjusted proportionate share on a Form SU–103–A or other similar written notice.

(e) *Determination provisions prevail.* The bases and procedures set forth in this section are issued in accordance with and subject to the provisions of § 850.53.

Statement of bases and considerations. This supplement sets forth the bases and procedures established by the Agricultural Stabilization and Conservation Utah State Committee for determining farm proportionate shares in Utah in accordance with the determination of proportionate shares for the 1957 crop of sugar beets, as issued by the Secretary of Agriculture.

The bases and procedures specified herein are essentially the same as those which were effective in the State for the 1955 and 1956 crops, except for the designation of proportionate share areas. Because of a drought condition in the central part of the State, two former areas are combined into one, resulting in six areas for the 1957-crop year. Advisory committees, including grower and processor representatives, are utilized. In establishing proportionate shares for old producers, the factors of "past production" and "ability to produce" sugar beets are measured by using in each case the "1956-crop share established for the farm", as that term is defined, as the base in prorating the acreage available for such producers. The procedure for establishing farm shares for new producers meets the related requirements of § 850.53.

The bases and procedures for making adjustments in initial proportionate shares and for adjusting shares subsequently because of unused acreage and appeals are designed to provide a fair and equitable proportionate share for each farm of the total acreage of sugar beets required to enable the domestic beet sugar area to meet its quota and provide a normal carryover inventory.

(Sec. 403, 61 Stat. 932. Interprets or applies sec. 302, 61 Stat. 930, as amended; 7 U. S. C. 1132)

Dated: May 27, 1957.

[SEAL] E. RAY LYMAN,
Chairman, Agricultural Stabilization and Conservation Utah State Committee.

Approved: June 27, 1957.

TOM O. MURPHY,
Acting Director, Sugar Division, Commodity Stabilization Service.

[F. R. Doc. 57–5550; Filed, July 8, 1957; 8:53 a. m.]

[Sugar Determination 850.53, Rev., Supp. 3]

PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

WASHINGTON PROPORTIONATE SHARE AREAS AND FARM PROPORTIONATE SHARES FOR 1957 CROP

Pursuant to the provisions of the Determination of Proportionate Shares for Farms in the Domestic Beet Sugar Area, 1957 Crop (22 F. R. 631) the Agricultural Stabilization and Conservation Washington State Committee has issued the bases and procedures for dividing the State into proportionate share areas and establishing individual farm proportionate shares from the allocation of 34,397 acres established for Washington by the determination. Copies of these bases and procedures are available for public inspection at the office of such Committee at the Hutton Building, South 9, Washington Street, Spokane, Washington, and at the offices of the Agricultural Stabilization and Conservation Committees in the sugar beet producing counties of Washington. These bases and procedures incorporate the following:

§ 850.56 *Washington*—(a) *Proportionate share areas.* Washington shall be divided into three proportionate share areas as served by beet sugar companies. These areas shall be designated as follows: Utah-Idaho, Amalgamated and American Crystal. Acreage allotments for these areas shall be computed by applying to the planted sugar beet acreage record for each area a weighting of 75 percent to the average acreage for the crops of 1952 through 1954, as a measure of "past production", and a weighting of 25 percent to the largest acreage of any of the crops of 1952 through 1954, as a measure of "ability to produce", with a ceiling of 100 percent of the 1954 acreage, a floor of 88.7 percent of the 1954 acreage and pro rata adjustments to a total of 34,397 acres. Acreage allotments computed as aforestated are established as follows: Utah-Idaho Area—32,405 acres, Amalgamated Area—1,888 acres, and American Crystal Area—104 acres.

(b) *Set-asides of acreage.* Set-asides of acreage shall be made from area allotments as follows: Utah-Idaho Area—648.0 acres for new producers and 391.0 acres for appeals, and 2722.0 acres for adjustments in initial shares; Amalgamated Area—38.0 acres for new producers, 25.0 acres for appeals and 84.6 acres for adjustments in initial shares; and American Crystal Area—2.0 acres for new producers, 2.0 acres for appeals, and 0 acres for adjustments in initial shares.

(c) *Requests for proportionate shares.* A request for each farm proportionate share shall be filed at the local ASC County Office on form SU–100, Request for Sugar Beet Proportionate Share. The request shall be signed and filed by the farm operator (the producer who controls and directs the operations on the farm) or owner (or legal representative) and shall be filed on or before the closing date for such filing, as provided in § 850.53.

(d) *Establishment of individual farm proportionate shares*—(1) *For old producers*—(i) *Farm bases.* For each farm in each proportionate share area whose operator is a tenant, the farm base shall equal the "1956 crop share established for the farm" which was operated by him for the 1956-crop year. For each farm whose operator is a tenant without a personal sugar beet production record in the period used in the area in which the farm is located for establishing shares for the 1956 crop (Sugar Determination 850.30 Supplement 10, 21 F. R. 6991), and for each farm in each proportionate share area whose operator is not a tenant, the farm base shall equal the "1956-crop share established for the farm". The term "1956-crop share established for the farm" shall mean either the 1956-crop share established for the farm, including adjustments made under appeals but excluding any downward adjustment made because the 1956-crop acreage planted on the farm was less than the share originally established for the farm and any upward adjustment made because the 1956-crop shares of other farms were

not fully planted, or the initial 1956-crop share which would have been established pursuant to Sugar Determination 850.30, as amended, and supplement 10 thereto (21 F. R. 6991) if it had been requested by the 1957 farm operator, except as a 1956-crop new producer.

(ii) *Initial proportionate shares.* Initial proportionate shares shall be established from the farm bases in each proportionate share area as follows: For farms for which the respective requested acreages are equal to or less than their farm bases, the initial shares shall coincide with the requested acreages; and for all other farms, initial shares shall be computed by prorating to such farms in accordance with their respective bases, the area allotment less the prescribed set-asides and the total of the initial shares established in accordance with the preceding part of this subparagraph.

(iii) *Adjustments in initial shares.* Within the acreage available from the set-aside for adjustments, and from acreage of initial shares in excess of requested acreages in each proportionate share area, adjustments shall be made in initial farm proportionate shares for old producers so as to establish a proportionate share for each farm which is fair and equitable as compared with proportionate shares for all other farms in the area by taking into consideration availability and suitability of land, area of available fields, availability of irrigation water, adequacy of drainage, availability of production and marketing facilities, and the production experience of the operator.

(2) *For new producers.* Within the acreage set aside for new producers in each proportionate share area, proportionate shares shall be established in an equitable manner for farms to be operated during the crop year by new producers (as defined in § 850.53) by taking into consideration the availability and suitability of land, area of available fields, availability of irrigation water, adequacy of drainage, availability of production and marketing facilities and the production experience of the operator.

(3) *Adjustments under appeals.* Within the acreage set aside for making adjustments under appeals and any other acreage remaining unused in each proportionate share area, adjustments shall be made in proportionate shares under appeals to establish fair and equitable farm shares in accordance with the provisions of § 850.53 applicable to appeals.

(4) *Adjustments because of unused acreage.* To the extent of acreage available within the allotment for each proportionate share area from underplanting and failure to plant, and unused acreage from set-asides and other sources, adjustments shall be made in farm proportionate shares during the 1957-crop season. Insofar as practicable, acreage remaining unused in any area shall be reallotted to the other areas wherein it may be used.

(5) *Notification of farm operators.* The farm operator shall be notified concerning the proportionate share established for his farm on form SU–103, Notice of Farm Proportionate Share—1957 Sugar Beet Crop, even if the acreage established is "none", and in each case of approved adjustment the farm operator shall be notified regarding the adjusted proportionate share on a form SU–103–A or other similar written notice.

(6) *Determination provisions prevail.* The bases and procedures set forth in this section are issued in accordance with and subject to the provisions of § 850.53.

Statement of bases and considerations. This supplement sets forth the bases and procedures established by the Agricultural Stabilization and Conservation Washington State Committee for determining farm proportionate shares in Washington in accordance with the determination of proportionate shares for the 1957 crop of sugar beets, as issued by the Secretary of Agriculture.

The bases and procedures specified herein are essentially the same as those which were effective in the State for the 1955 and 1956 crops. Washington is again divided into the same three areas. Advisory committees, including grower and processor representatives, are utilized. In establishing proportionate shares for old producers, the factors of "past production" and "ability to produce" sugar beets are measured by using in each case the "1956-crop share established for the farm", as that term is defined, as the base in prorating the acreage available for such producers. The procedure for establishing farm shares for new producers meets the related requirements of § 850.30.

The bases and procedures for making adjustments in initial proportionate shares and for adjusting shares subsequently because of unused acreage and appeals are designed to provide a fair and equitable proportionate share for each farm of the total acreage of sugar beets required to enable the domestic beet sugar area to meet its quota and provide a normal carryover inventory.

(Sec. 403, 61 Stat. 932. Interprets or applies sec. 302, 61 Stat. 930, as amended; 7 U. S. C. 1132)

Dated: May 22, 1957.

[SEAL] GLENN D. COPELAND,
Chairman, Agricultural Stabilization, and Conservation Washington State Committee.

Approved: June 27, 1957.

TOM O. MURPHY,
Acting Director, Sugar Division, Commodity Stabilization Service.

[F. R. Doc. 57–5549; Filed, July 8, 1957; 8:53 a. m.]

[Sugar Determination 850.53, Rev., Supp. 6]

PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

COLORADO PROPORTIONATE SHARE AREAS AND FARM PROPORTIONATE SHARES FOR 1957 CROP

Pursuant to the provisions of the Determination of Proportionate Shares for Farms in the Domestic Beet Sugar Area, 1957 Crop (22 F. R. 631), the Agricultural Stabilization and Conservation Colorado State Committee has issued the bases and procedures for dividing the State into proportionate share areas and establishing individual farm proportionate shares from the allocation of 147,053 acres established for Colorado by the Determination. Copies of these bases and procedures are available for public inspection at the office of such Committee at the New Custom House, Denver, Colorado, and at the offices of the Agricultural Stabilization and Conservation Committees in the sugar beet producing counties of Colorado. These bases and procedures incorporate the following:

§ 850.59 *Colorado*—(a) *Proportionate share areas.* Colorado shall be divided into three proportionate share areas comprising the parts of the State included in the factory districts of the Great Western Sugar Company, the Rocky Ford-Sugar City-Swink factory districts, and the Delta factory district. These areas shall be designated Northern Area, Southern Area, and Western Area, respectively. Acreage allotments for these areas shall be computed by applying to the planted sugar beet acreage record for each area a weighting of 75 percent to the average acreage for the crops of 1950 through 1954, as a measure of "past production", and a weighting of 25 percent to the largest acreage of any of the crops of 1950 through 1954, as a measure of "ability to produce", with pro rata adjustments to a total of 147,053 acres. Acreage allotments computed as aforestated are established as follows: Northern Area—120,153 acres; Southern Area—21,358 acres; and Western Area—5,542 acres.

(b) *Set-asides of acreage.* Set-asides of acreage shall be made from area allotments as follows: Northern Area—2,403.0 acres for new producers, 1,202 acres for appeals, and 9,155.0 acres for adjustments in initial shares; Southern Area—427.0 acres for new producers, 214.0 acres for appeals, and 1,833.0 acres for adjustments in initial shares; and Western Area—111.0 acres for new producers, 55.0 acres for appeals, and 1,503.5 acres for adjustments in initial shares.

(c) *Requests for proportionate shares.* A request for each farm proportionate share shall be filed at the local ASC County Office on Form SU–100, Request for Sugar Beet Proportionate Share. The request shall be signed and filed by the farm operator (the producer who controls and directs the operations on the farm) or owner (or legal representative) and shall be filed on or before the closing date for such filing as provided in § 850.53.

(d) *Establishment of individual farm proportionate shares*—(1) *For old producers*—(i) *Farm bases.* The farm base for each farm in the Northern or the Southern area shall equal the "1956-crop share established for the farm". The term "1956-crop share established for the farm" shall mean either the 1956-crop share established for the farm, including adjustments made under appeals but excluding any downward adjust-

ments made because the 1956-crop acreage planted on the farm was less than the share originally established for the farm and any upward adjustment made because the 1956-crop shares of other farms were not fully planted, or the initial 1956-crop share which would have been established pursuant to Sugar Determination 850.30, as amended, and Supplement 1 thereto (21 F. R. 5253) if it has been requested by the 1957 farm operator, except as a 1956-crop new producer. For each farm operated by an old producer (any producer except a new producer) in the Western Area, the farm base shall be computed from the planted sugar beet acreage record of the farm by giving a weighting of 75 percent to the average acreage for the crops of 1952 through 1956, as a measure of "past production", and a weighting of 25 percent to the average acreage of the crops of 1955 and 1956 as a measure of "ability to produce".

(ii) *Initial proportionate shares.* Initial proportionate shares shall be established from the farm bases in each proportionate share area as follows: For farms for which the respective requested acreages are equal to or less than their farm bases, the initial shares shall coincide with the requested acreages, and for all other farms, initial shares shall be computed by prorating to such farms in accordance with their respective bases, the area allotments less the prescribed set-asides and the total of the initial shares established in accordance with the preceding part of this subparagraph.

(iii) *Adjustments in initial shares.* Within the acreage available from the set-aside for adjustments, and from acreage of initial shares in excess of requested acreages in each proportionate share area, adjustments shall be made in initial farm proportionate shares for old producers so as to establish a proportionate share for each farm which is fair and equitable as compared with proportionate shares for all other farms in the area by taking into consideration availability and suitability of land, area of available fields, availability or irrigation water, adequacy of drainage, availability of production and marketing facilities, and the production experience of the operator.

(2) *For new producers.* Within the acreage set aside for new producers in each proportionate share area, proportionate shares shall be established in an equitable manner for farms to be operated during the 1957 crop year by new producers (as defined in § 850.53) by taking into consideration the availability and suitability of land, area of available fields, availability of irrigation water, adequacy of drainage, availability of production and marketing facilities and the production experience of the operator.

(3) *Adjustments under appeals.* Within the acreage set aside for making adjustments under appeals and any other acreage remaining unused in each proportionate share area, adjustments shall be made in proportionate shares under appeals to establish fair and equitable farm shares in accordance with the provisions of § 850.53, applicable to appeals.

(4) *Adjustments because of unused acreage.* To the extent of acreage available within the allotment for each proportionate share area from underplanting and failure to plant, and unused acreage from set-asides and other sources, adjustments shall be made in farm proportionate shares during the 1957-crop season. Insofar as practicable, acreage remaining unused in any area shall be reallotted to the other areas wherein it may be used.

(5) *Notification of farm operators.* The farm operator shall be notified concerning the proportionate share established for his farm on form SU–103, Notice of Farm Proportionate Share—1957 Sugar Beet Crop, even if the acreage established is "none", and in each case of approved adjustment, the farm operator shall be notified regarding the adjusted proportionate share on a Form SU–103–A or other similar written notice.

(e) *Determination provisions prevail.* The bases and procedures set forth in this section are issued in accordance with and subject to the provisions of § 850.53.

Statement of bases and considerations. This supplement sets forth the bases and procedures established by the Agricultural Stabilization and Conservation Colorado State Committee for determining farm proportionate shares in Colorado in accordance with the determination of proportionate shares for the 1957 crop of sugar beets, as issued by the Secretary of Agriculture.

Except for a change in the base period used in the Western Area, the bases and procedures specified herein are essentially the same as those which were effective in the State for the 1955 and 1956 crops. Advisory committees, including grower and processor representatives, are utilized. In establishing proportionate shares for old producers in the Northern and Southern Areas, the factors of "past production" and "ability to produce" sugar beets are measured for each farm by using the "1956-crop share established for the farm", as that term is defined, as the base in prorating the acreage available for such producers. In the Western Area, these factors are measured by applying a formula to planted acreages in a base period which is changed from 1950–54 to 1952–56. The weightings given the factors are similar to those given for the 1955 and 1956 programs. The change in the base period gives greater recognition to more recent plantings. The procedure for establishing farm shares for new producers meets the related requirements of § 850.53.

The bases and procedures for making adjustments in initial proportionate shares and for adjusting shares subsequently because of unused acreage and appeals are designed to provide a fair and equitable proportionate share for each farm of the total acreage of sugar beets required to enable the domestic beet sugar area to meet its quota and provide a normal carryover inventory.

(Sec. 403, 61 Stat. 932. Interprets or applies sec. 302, 61 Stat. 930, as amended; 7 U. S. C. 1132)

Dated: June 12, 1957.

[SEAL] MAYNARD C. MCCORMICK,
Chairman, Agricultural Stabilization and Conservation Colorado State Committee.

Approved: June 27, 1957.

TOM O. MURPHY,
Acting Director, Sugar Division, Commodity Stabilization Service.

[F. R. Doc. 57–5551; Filed, July 8, 1957; 8:53 a. m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 946—MILK IN LOUISVILLE, KY., MARKETING AREA

ORDER AMENDING THE ORDER

§ 946.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Louisville, Kentucky, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as hereby amended, and all of the terms and conditions of said order, as hereby amended, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for such milk, and the minimum prices specified in the order, as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as hereby amended, regulates the handling of milk in the same manner as, and is applicable

only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective immediately. Any delay will seriously threaten the orderly marketing of milk in the Louisville, Kentucky, marketing area.

The provisions of the said order are known to handlers. The decision of the Acting Secretary containing all amendment provisions of this order was issued July 2, 1957. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective immediately and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (See sec. 4 (c), Administrative Procedure Act, 5 U. S. C. 1001 et seq.).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order, amending the order which is marketed within the Louisville, Kentucky, marketing area) of more than 50 percent of the milk which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of the order amending the order is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order is approved or favored by at least two-thirds of the producers who, during the determined representative period (May 1957), were engaged in the production of milk for sale in the said marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Louisville, Kentucky, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, as follows:

1. Delete the last word, "or," in § 946.9 (b).

2. Change the period at the end of § 946.9 (c) to a semicolon and add the word, "or," immediately after the semicolon.

3. Add paragraph (d) to § 946.9 immediately after paragraph (c) as follows:

(d) A country plant which is operated by a cooperative association and (1) 75 percent or more of the producer milk from members of such association is delivered during the month directly to the pool plant(s) of other handlers or transferred by such association to the pool plant(s) of other handlers or (2) such plant qualified as a pool plant pursuant to subparagraph (1) of this paragraph during each of the immediately preceding consecutive months of October through February.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Issued at Washington, D. C., this 3d day of July 1957, to be effective immediately.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 57-5543; Filed, July 8, 1957; 8:52 a. m.]

PART 957—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREG.

LIMITATION OF SHIPMENTS

§ 957.316 *Limitation of shipments*—(a) *Findings.* (1) Pursuant to Marketing Agreement No. 98 and Order No. 57, as amended (7 CFR Part 957), regulating the handling of Irish potatoes grown in certain designated counties in Idaho and Malheur County, Oregon, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Idaho-Eastern Oregon Potato Committee, established pursuant to said marketing agreement and order, as amended, and upon other available information, it is hereby found that the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, (ii) more orderly marketing in the public interest, than would otherwise prevail, will be promoted by regulating the shipment of potatoes, in the manner set forth below, on and after the effective date of this section, (iii) compliance with this section will not require any preparation on the part of handlers which cannot be completed by the effective date, (iv) a reasonable time is permitted under the circumstances for such preparation, and (v) information regarding the committee's recommendations has been made available to producers and handlers in the production area.

(b) *Order* (1) Except as otherwise provided in this section, during the period from July 8, 1957, through September 20, 1957, no handler shall ship potatoes of any variety unless such potatoes are generally "fairly clean", which means that at least 90 percent of such potatoes are "fairly clean", as such terms are defined in the United States Standards for Potatoes (§§ 51.1540 to 51.1559 of this title), and

(i) If they are of the round varieties (including, but not being limited to, Bliss Triumph, and Pontiac varieties), such potatoes meet the requirements of the U. S. No. 2, or better, grade, 1⅞ inches minimum diameter,

(ii) If they are of the White Rose variety, such potatoes meet the requirements of the U. S. No. 2, or better, grade, 5 ounces minimum weight: *Provided,* That any such potatoes that grade not less than U. S. No. 1, may be shipped if they are of 2 inches minimum diameter and 4 ounces minimum weight, and

(iii) If they are of any other variety (including, but not being limited to, Russet Burbank, Early Gem, and Kennebec varieties), such potatoes meet the requirements of the U. S. No. 2, or better, grade, and are of 2 inches minimum diameter and 4 ounces minimum weight,

as such terms, grades, and sizes are defined in the United States Standards for Potatoes (§§ 51.1540 to 51.1559 of this title), except that the tolerances, under said United States Standards, on an individual container basis shall be the same as on a lot basis.

(2) Except as otherwise provided in this section, during the period from July 8, 1956, through Sepetmber 20, 1957, no handler shall ship (i) any lot of potatoes of the Kennebec or White Rose Variety if more than 25 percent of the potatoes in such lot have more than one-half of the skin missing or "feathered", as such terms are used in the said United States Standards, or (ii) any lot of potatoes of any other variety if such potatoes are more than "moderately skinned," as such term is defined in the said United States Standards, which means that not more than 10 percent of such potatoes have more than one-half of the skin missing or "feathered": *Provided,* That during such period, not to exceed a total of 50 hundredweight of each variety of such potatoes may be handled for any producer without regard to the aforesaid skinning requirements: *Provided further,* That in addition to such 50 hundredweight of potatoes of any variety that may be handled without regard to said skinning requirements, any lot of potatoes may be handled for any producer without regard to such requirements if (*a*) such lot of potatoes previously failed, upon inspection by a Federal-State inspector, to meet grade and size requirements but met the aforesaid skinning requirements applicable to such lot of potatoes, (*b*) such lot of potatoes has been regraded, and such lot of potatoes otherwise meets, as indicated by a Federal-State inspection certificate, the grade and size requirement applicable to such potatoes, and (*c*) the potatoes failing to meet the aforesaid skinning requirements are not in excess of 100 hundredweight in any such lot. Prior to each shipment of potatoes exempt from the above skinning requirements, the

handler thereof shall report to the committee, the name and address of the producer of such potatoes, and each such shipment shall be handled as an identifiable entity.

(3) Each handler may make one shipment of not in excess of 5 hundredweight per week without regard to the regulatory, assessment, and inspection requirements of this part.

(4) The grade, size and maturity limitations set forth in subparagraphs (1) and (2) of this paragraph shall not be applicable to shipments of potatoes for the following purposes: (i) As certified seed potatoes; (ii) export: *Provided*, That no handler shall ship potatoes for export which do not meet the requirements of the U. S. No. 2, or better, grade, 1½ inch minimum diameter; (iii) canning, freezing, dehydration or manufacture into starch or flour, and (iv) charity.

(5) Each handler making any shipment of potatoes pursuant to subparagraph (4) of this paragraph for export, canning, freezing, dehydration or manufacture into starch or flour, or for charity shall: (i) First apply to the committee for, and obtain, a Certificate of Privilege to make such shipment; (ii) pay assessments on such shipment, except shipment for canning or freezing; (iii) have such shipment inspected, except shipment for canning or freezing; (iv) upon request by the committee, furnish reports of each shipment made pursuant to each Certificate of Privilege; (v) with respect to such shipment, furnish the committee with a copy of the bill of lading or oppropriate record of movement in case of trucks for each such shipment made under Certificate of Privilege; (vi) with respect to such shipment, furnish the Committee with the buyer's certification that the potatoes handled under the Certificate of Privilege are to be used only for the purpose stated therein.

(6) Terms used in this section shall have the same meaning as when used in Marketing Agreement No. 98 and Order No. 57, as amended (§§ 957.1 to 957.92).

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: July 3, 1957.

[SEAL] G. R. GRANGE,
Acting Director,
Fruit and Vegetable Division.

[F. R. Doc. 57-5542; Filed, July 8, 1957; 8:51 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations

PART 26—AIR-TRAFFIC CONTROL-TOWER OPERATOR CERTIFICATES

REVISION OF PART

Because of the number of outstanding amendments to Part 26, it has been decided to issue a revision of this part, incorporating all amendments thereto in effect on July 1, 1957. Attention is called also to the following minor changes which have been made:

(1) Section 26.21 which governed the termination of air-traffic control-tower operator certificates issued prior to September 27, 1950, to other than United States citizens has been deleted. Since all such certificates have now expired, the section is without present effect.

(2) All footnotes have been changed to notes and follow the sections to which they apply.

Since the changes effected by this revision are minor in nature and impose no additional burden on any person, notice and public procedure hereon are unnecessary and the revised part may be made effective on less than 30 days' notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby revises Part 26 of the Civil Air Regulations (14 CFR Part 26, as amended) as set forth below, effective on July 1, 1957.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

QUALIFICATIONS FOR CERTIFICATE

Sec.
26.1 Control-tower operator certificate requirements.
26.2 Physical condition.
26.3 Knowledge.

QUALIFICATIONS FOR RATINGS

26.6 Character of ratings.
26.7 Qualifications for junior rating.
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26.25 Rating record.
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26.35 Operation during physical deficiency.
26.36 Recent experience requirements.

AUTHORITY: §§ 26.1 to 26.36 issued under sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601, 602, 52 Stat. 1007, 1008; 49 U. S. C. 551, 552.

QUALIFICATIONS FOR CERTIFICATE

§ 26.1 *Control-tower operator certificate requirements.* To be eligible for an air-traffic control-tower operator certificate an applicant shall comply with the following requirements:

(a) *Age.* 21 years is the minimum age for the issuance of a control-tower operator certificate; except that in the case of a person serving as a member of the military services of the United States, 18 years is the minimum age for the issuance of such a certificate: *Provided*, That certificates issued to members of the military services who are less than 21 years of age shall, until the holder thereof reaches the age of 21, be valid only when the holder is serving as a member of the military services in a control tower operated by such services.

(b) *Character.* An applicant shall be a person of good moral character.

(c) *Education.* An applicant shall be able to read, write, and understand the English language and to speak the English language without any accent or impediment of speech which would interfere with two-way radio conversation.

(d) *Citizenship.* An applicant for a control-tower operator certificate may be a citizen of any country or a person without nationality.

§ 26.2 *Physical condition.* Applicant shall meet the physical standards of the Second Class prescribed in Part 29 of this subchapter.

§ 26.3 *Knowledge.* An applicant must pass an examination on the following subjects:

NOTE: Lists of source material covering the subject matter of these examinations can be obtained from any Regional Manager of the Civil Aeronautics Administration.

(a) Air traffic rules set forth in Part 60 of this subchapter;

(b) Airport traffic control procedures, and this part;

(c) Airway traffic control procedures;

(d) Radio frequencies and procedures used for airport traffic control;

(e) Use of radio aids to air navigation;

(f) The making of weather observations; and

(g) Pertinent rules and regulations of the Federal Communications Commission. An applicant who presents satisfactory evidence that he possesses a restricted radiotelephone operator permit or higher grade of radiotelephone operator license issued by the Federal Communications Commission will not be required to take the examinations prescribed in this paragraph.

QUALIFICATIONS FOR RATINGS

§ 26.6 *Character of ratings.* The holder of an air-traffic control-tower operator certificate (hereinafter referred to as "certificate") may receive a junior or senior rating, depending upon his qualifications to perform the duties of an air-traffic control-tower operator (hereinafter referred to as "operator") at a particular airport.

§ 26.7 *Qualifications for junior rating.* An applicant must pass an examination on the following subjects:

(a) Local airport rules and characteristics of local air traffic of the airport for which the rating is sought;

(b) Local aircraft operations and such other aircraft operations as may affect conditions at the airport for which the rating is sought;

(c) Teletype symbols and weather sequences of the airways converging on the airport and other pertinent data regarding meteorological reports available within a circular area of a radius of 125 miles measured from the airport for which the rating is sought; and

(d) Any other subject or subjects in which the Administrator may deem an examination necessary. The applicant will be given adequate notice of the subject of the examination.

§ 26.8 *Qualifications for senior rating*—(a) *Knowledge.* An applicant must

pass an examination on the subjects required for a junior rating and, in addition, the following subjects:

(1) Air navigation facilities within a radius of 200 miles of the airport for which the rating is sought;

(2) Airway traffic control procedures in the area in which the airport for which the rating is sought is located;

(3) Instrument approach and departure procedures at the airport for which the rating is sought; and

(4) Any other subject or subjects in which the Administrator may deem an examination necessary. The applicant will be given adequate notice of the subject of the examination.

(b) *Experience.* An applicant must have performed satisfactory service:

(1) As an operator with a senior rating for at least 6 months; or

(2) As an operator with a junior rating at the airport for which the rating is sought for the 6 months immediately preceding application; or

(3) As an air-traffic control trainee in Federal service for at least 6 months; or

(4) For 1 year of the 2 years immediately preceding application as:

(i) An operator with a junior rating at an airport other than that at which the rating is sought; or

(ii) An operator at a landing area under military or naval jurisdiction.

(c) *Other requirements.* The applicant must demonstrate his ability to supervise and manage all activities of the airport control tower or airport control station, which shall at least include the preparation of such reports as may be required from time to time by the airport manager or the Administrator.

EXAMINATIONS

§ 26.12 *General.* The prescribed examinations will be conducted by representatives of the Administrator at a designated time and place.

§ 26.13 *Physical examinations.* (a) The prescribed physical requirements must be met before any practical or theoretical examination will be given and must be completed within the 12 months immediately preceding application for a certificate.

(b) In lieu of a physical examination conducted by an authorized medical examiner of the Administrator, a form acceptable to the Administrator, signed by a medical officer on duty with the Army, Navy, Marine Corps, or Coast Guard who is authorized to conduct physical examinations for flying, stating that the applicant is an active member of his service and has met within the preceding 12 months the physical requirements prescribed by § 26.2.

§ 26.14 *Re-examination after failure.* An applicant who has failed any prescribed written or practical examination or test may not apply for re-examination within a 30-day period unless he presents a statement signed by a certificated air-traffic control-tower operator, a certificated ground instructor, or an equally qualified individual acceptable to the Administrator, which attests that the applicant has received an additional 5 hours of instruction in each of the subjects failed and that the applicant is considered competent for re-examination.

ISSUANCE AND EXPIRATION OF CERTIFICATES

§ 26.18 *Duration.* (a) An air-traffic control-tower operator certificate issued to a United States citizen shall remain in effect until surrendered, suspended, revoked, or otherwise terminated by order of the Board. A certificate issued to an applicant other than a United States citizen shall remain in effect for a period no longer than 12 months after the date of issuance, but it may be reissued without further demonstration of technical competence.

(b) After revocation, and upon request after suspension, the certificate shall be returned to the Administrator.

(c) Nothing in this section shall be construed to deny or defeat the jurisdiction of the Federal courts, the Administrator, or the Board to impose any authorized sanction, including revocation of the certificate, for a violation of the act or of the Civil Air Regulations occurring during the effective period of the certificate.

§ 26.19 *Temporary certificates.* The Administrator or his authorized representative may issue a temporary air-traffic control-tower operator certificate for a period of not to exceed 90 days, subject to the terms and conditions specified therein by the Administrator.

§ 26.20 *Change of address.* Within 30 days after any change in the permanent mailing address of the holder of an air-traffic conrol-tower operator certificate, he shall notify the Administrator in writing of his new address. This notice shall be mailed to the Administrator of Civil Aeronautics, attention Airman Records Branch, Washington 25, D. C.

REGULATIONS

§ 26.25 *Rating record.* A certificated operator shall not serve as such unless there is attached to his certificate the appropriate rating record prescribed and issued by the Administrator, nor serve otherwise than in accordance with the limitations prescribed by the Administrator in his certificate or rating record.

NOTE: The rating record is a sheet which will be attached to all certificates when they are issued and will prescribe the airports at which the holder is authorized to serve and the class of rating held.

§ 26.26 *Exercise of authority.* A certificated air-traffic control-tower operator shall control traffic in accordance with the procedures and practices prescribed by the Administrator to provide for the safe, orderly, and expeditious flow of air traffic and in accordance with the following requirements:

(a) When weather conditions are equal to or better than the basic minimums prescribed for VFR flight by Part 60 of this subchapter, air traffic may be controlled by an operator with either a junior or senior rating for the airport involved: *Provided,* That where the Administrator finds the volume or character of the air traffic, the type and equipment of aircraft utilizing the airport, or the airport facilities require that an operator with a junior rating be supervised, he may require all air traffic at such airport to be controlled under the supervision of an operator with a senior rating.

(b) When weather conditions are below the basic minimums prescribed for VFR flight by Part 60 of this subchapter, air traffic shall be controlled by an operator with a senior rating, and such operator shall not issue an air traffic clearance for flight without prior authorization from the appropriate air-traffic control center.

(c) In an emergency an operator with a senior rating may delegate his authority to an operator with a junior rating.

§ 26.27 *Relaying information.* An operator shall not relay information or instructions received from airway traffic control personnel, airway communications, or United States Weather Bureau airport stations, otherwise than in the manner approved by the Administrator.

§ 26.28 *Maximum hours.* Except in case of an emergency, a certificated operator shall be relieved of all duty for not less than 24 consecutive hours at least once during each 7 consecutive days, and shall not serve, nor be required to serve as such:

(a) In excess of 10 consecutive hours;

(b) In excess of 10 hours during a period of 24 consecutive hours unless the operator is given a rest period of not less than 8 hours at or before the termination of such 10 hours of duty.

§ 26.29 *Display of certificate.* An operator shall keep his certificate readily available when he is on duty and shall present it for inspection upon request of any officer or employee of the Administrator or Board and of any State or municipal official charged with the duty of enforcing local laws or regulations involving Federal compliance.

§ 26.30 *Medical certificate.* A medical certificate issued by an authorized medical examiner of the Administrator or other evidence satisfactory to the Administrator that the air-traffic control-tower operator has met the physical requirements prescribed in this part shall be carried by such airman while on duty.

§ 26.31 *Equipment standards.* A certificated air-traffic control-tower operator shall not control air traffic with facilities which the Administrator has determined to be inadequate.

§ 26.32 *Inspection.* An applicant or a holder of a certificate or rating, upon reasonable request by any representative of the Administrator, shall cooperate fully in any examination which may be made of him.

§ 26.34 *Periodic physical examination.* The holder of an air-traffic control-tower operator certificate shall not exercise the privileges thereunder unless within the preceding 12 calendar months he has met the physical standards of the Second Class prescribed in Part 29 of this subchapter by passing an examination conducted by an authorized medical examiner of the Administrator.

§ 26.35 *Operation during physical deficiency.* A certificated air-traffic control-tower operator shall not serve as such during the period of any known physical deficiency which would render him unable to meet the physical requirements prescribed for the original issuance of his certificate: *Provided,* That if the deficiency is of a temporary nature, he may perform any duties not affected thereby when there is present and on duty another certificated and properly qualified air-traffic control-tower operator.

§ 26.36 *Recent experience requirements.* The holder of an air-traffic control-tower operator certificate shall not exercise the privileges thereunder unless:

(a) If rated as a junior air-traffic control-tower operator, he has served for at least 3 months as an operator at the airport to which the rating applies during the 12 calendar months immediately preceding, or

(b) If rated as a senior air-traffic control-tower operator, he has served for at least 3 months as an operator at the airport to which the rating applies during the 6 calendar months immediately preceding, or

(c) He has demonstrated to the satisfaction of the Administrator that he is able to meet the standards currently prescribed by the regulations of this subchapter for the issuance of the certificate and rating.

[F. R. Doc. 57-5505; Filed, July 8, 1957; 8:45 a. m.]

TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor

[Child Labor Reg. 38]

PART 4—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

SUBPART B—ACCEPTANCE OF STATE CERTIFICATES

DESIGNATION OF STATES; EXTENSION OF EFFECTIVE DATE

Pursuant to the provisions of 29 CFR Part 4, Subpart A (Child Labor Regulation No. 1), the designation of the States enumerated in § 4.21 of 29 CFR Part 4, as States in which State age, employment or working certificates or permits shall have the same force and effect as Federal certificates of age under the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U. S. C. 201), is hereby extended and shall be effective from July 1, 1957, until June 30, 1958, unless amended or revoked prior to such date.

(Secs. 3, 11, 52 Stat. 1060, as amended, 1066, as amended; 29 U. S. C. 203, 211)

Signed at Washington, D. C., this 21st day of June 1957.

JAMES P. MITCHELL,
Secretary of Labor.

[F. R. Doc. 57-5525; Filed, July 8, 1957; 8:49 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

[Docket 3666; Order 31]

PARTS 71–78—EXPLOSIVES AND OTHER DANGEROUS ARTICLES

MISCELLANEOUS AMENDMENTS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 25th day of June 1957.

The matter of revision of certain regulations governing the transportation of explosives and other dangerous articles, formulated and published by the Commission, being under consideration, and

It appearing that Notice No. 31, dated May 7, 1957, setting forth certain proposed amendments to the said regulations, and the reasons therefor, and stating that consideration was to be given thereto, was published in the FEDERAL REGISTER on May 24, 1957 (22 F. R. 3661), pursuant to the provisions of section 4 of the Administrative Procedure Act; that pursuant to said notice interested parties were given an opportunity to be heard with respect to said proposed amendments; that written views or arguments were submitted to the Commission with respect to the proposed amendments;

And it further appearing that said views and arguments with respect to the proposed amendments are such as to warrant revision at this time of certain of the proposed amendments, and that in all other respects the proposed amendments set forth in the above referred-to Notice No. 31 are deemed justified and necessary:

It is ordered, That the aforesaid regulations governing the transportation of explosives and other dangerous articles be, and they are hereby, amended in the manner and to the extent set forth in said Notice No. 31, dated May 7, 1957, as revised by the specific modifications set forth as follows:

1. In § 73.119, amend paragraph (f) (3).

2. In § 73.271 amend paragraphs (a) (7) and (9).

3. Revise the amendatory text to § 78.283 and subsections; amend § 78.283–15, paragraph (a).

4. Revise the amendatory text to § 78.284 and subsections; in § 78.284–22, cancel paragraph (a) (9) and redesignate paragraph (a) (10) as paragraph (a) (9).

5. In § 78.258–18, amend paragraph (a) (1).

6. In § 78.312–2, amend paragraph (b); in § 78.312–13, amend paragraphs (a) and (b); in § 78.312–17, amend paragraph (a).

As so modified, the amendments read as set forth below.

It is further ordered, That this order shall become effective September 23, 1957 and shall remain in effect until further order of the Commission;

It is further ordered, That compliance with the herein prescribed and amended regulations is hereby authorized on and after the date of service of this order;

And it is further ordered, That copies of this order be served upon all parties of record herein, and that notice shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing a copy thereof with the Director, Division of Federal Register.

(Sec. 204, 49 Stat. 546, as amended, sec. 835, 62 Stat. 739; 49 U. S. C. 304, 18 U. S. C. 835)

By the Commission, Division 3.

[SEAL] HAROLD D. McCOY,
Secretary.

PART 73—SHIPPERS

SUBPART A—PREPARATION OF ARTICLES FOR TRANSPORTATION BY CARRIERS BY RAIL FREIGHT, RAIL EXPRESS, HIGHWAY, OR WATER

In § 73.31 amend paragraph (a) table; add Note 12 to paragraph (a) table; amend paragraph (g) (9) and table 1 thereto; amend paragraph (h) (22 F. R. 2224, 2225, April 4, 1957) (21 F. R. 4562, 4563, June 26, 1956) to read as follows:

§ 73.31 *Qualification, maintenance, and use of tank cars.* (a) * * *

Where these regulations call for specification Nos.—	These specification containers may also be used subject to the provisions of the following notes—
103 [4, 8, 9, 11] and 103–W [4, 8, 9, 11]	ARA–II [1, 4, 8, 11], III [4, 8, 9, 11] and IV.[8, 9]
103A [4, 11] and 103A–W [4, 11]	ARA–II [2, 4, 11] and III.[2, 4, 11]
103B [4, 11] and 103B–W [4, 11]	ARA–II [4, 11] and III [4, 11] rubber lined.
103C–W [12]	103C.[8, 12]
103D–W, 103E–W, 103A–N–W	(See note 10).
104 [4, 9, 11] and 104–W [4, 9, 11]	ARA–IV.[4, 9, 11]
105A100 and 105A100–W	104A [7] and 104A–W.[7]
105A100–AL–W	104A–AL–W.[7]
105A300–W	ARA–V [8], ICC–105 [8] and 105A300.[8]
105A400–W	105A400.
105A500–W	105A500.
105A600–W	105A600.
106A500 and 106A500–X	ICC–27 tanks mounted on a car and classified as multi-unit tank prior to Oct. 1, 1930.[6]
106A800 and 106A800–X	None.
106A800NCI	None.
107A***	None.

[12] 103C, 103C–W and 103A–AL–W (§§ 78.283 and 78.292 of this chapter) tank cars built prior to August 31, 1956 equipped with a safety valve having a pressure setting of 45 psi. may be used. Cars equipped with 45 psi. safety valves may be continued in service but these valves may be reset to 35 psi. by changing the spring to a design suitable for the decreased pressure setting.

(g) * * *

(9) Periodic retests of metal tanks, safety valves and interior heater systems, except cars in chlorine service and tanks to specifications ICC–106A500, 106A500X, 106A800, 106A800X, 106A800NCI, 107A * * * or 110A500–W, may be made at any time during the calendar year the retest falls due, as follows:

TABLE 1—RETEST PERIODS AND PRESSURES

Classification	See footnote	Tank retests				Safety valve retest years	Interior heater systems retest				Tank test psi	Safety valve psi [a]	Safety valve vapor tight psi minimum	Retest holding time—minutes	Test time when lagging is not removed—minutes
		Up to 10 years	10-22 years	Over 10 years	Over 22 years		Up to 10 years	10-22 years	Over 10 years	Over 22 years					
ICC-103		10		10		10	10		10		60	*35	28	10	20
ICC-103A	(d)	5	3		1	None	5	3		1	60			10	20
ICC-103B	(f)	None	None		None	None	5	3		1	60				
ICC-103C	(e d)	5	3		1	(e)	5	3		1	60	g *45		10	20
ICC-104		10		10		10	10		10		60	*35	28	10	20
ICC-105	(e)	10		10		5					500	225	180	30	30
ICC-105A100		10		10		5					100	75	60	10	20
ICC-105A300	(e)	10		10		5					300	225	180	30	30
ICC-105A400	(e)	10		10		5					400	300	240	30	30
ICC-105A500	(b e)	10		10		5					500	375	300	30	30
ICC-105A600	(b e)	10		10		5					600	450	360	30	30
ICC-103-W		10		10		10	10		10		60	*35	28	10	20
ICC-103A-W	(d)	5	3		1	None	5	3		1	60			10	20
ICC-103B-W	(f)	None	None		None	None	5	3		1	60				
ICC-103B100-W	(f)	None		None		5					100	75	60	10	20
ICC-103C-W	(e d)	5	3		1	(e)	5	3		1	60	g 35	28	10	20
ICC-103D-W	(e d)	5	3		1	(e)	5	3		1	60	35	28	10	20
ICC-103E-W	(e d)	5	3		1	(e)	5	3		1	60	35	28	10	20
ICC-103A-N-W	(e d)	5	3		1	None	5	3		1	60			10	20
ICC-103AL-W		10		10		10	10		10		60	*35	28	10	20
ICC-103A-AL-W	(e d)	5	3		1	(e)	5	3		1	60	g 35	28	10	20
ICC-104-W		10		10		10	10		10		60	*35	28	10	20
ICC-105A100-AL-W		10		10		5	10		10		100	75	60	10	20
ICC-105A200-AL-W		10		10		5					200	150	120	10	20
ICC-105A300-AL-W		10		10		5					300	225	180	30	30
ICC-105A100-W		10		10		5	10		10		100	75	60	10	20
ICC-105A200-W		10		10		5					200	150	120	10	20
ICC-105A300-W	(e)	10		10		5					300	225	180	30	30
ICC-105A400-W	(e)	10		10		5					400	300	240	30	30
ICC-105A500-W	(b e)	10		10		5					500	375	300	30	30
ICC-105A600-W	(b e)	10		10		5					600	450	360	30	30
ICC-109A100-AL-W		10		10		5	10		10		100	75	60	10	20
ICC-109A300-AL-W		10		10		5					300	225	180	10	20
ICC-109A300-W		10		10		5					300	225	180	30	30
ICC-103AL		10	5			(e)					60	*35	28	10	20
ICC-103C-AL		4	4	2	1	(e)					60	*60		10	20
ICC-111A100-W-1		10		10		10	10		10		100	75	60	10	20
ICC-111A100-W-2		5	3		1	None	5	3		1	100			10	20
ICC-111A100-W-3		10		10		10	10		10		100	75	60	10	20
ICC-111A100-W-4		10		10		5	10		10		100	75	60	10	20
ICC-112A400-W		10		10		5					400	300	240	10	
Emergency USG-A, B, and C											60	*25		10	20

[a] Tanks and safety valves in chlorine service must be retested every 2 years. See 73.314 (a) note 18.
[b] Special requirements for carbon dioxide—valves must be retested at pressure required for new construction.
[c] Safety valves indicated with * are set at specified pressure plus or minus 3 psi. All other valves must be open at a pressure not exceeding that specified.
[d] A commodity for which a tank is approved may be used for filling tank and dome when retesting tanks in service not over 10 years.
[e] Safety valve retest period is same as tank retest period.
[f] Tanks must be retested before rubber lining is renewed or before being returned to service after any repairs requiring welding, riveting or caulking of rivets.
[g] See § 73.31 (a) note 12.

* * * * *

(h) Tank cars and appurtenances may be used for the transportation of any commodity for which they are authorized. If proposed to be used for a commodity service other than those authorized, they must be approved for such service by the Association of American Railroads Committee on Tank Cars. Transfer of a tank car from one authorized service to another may be made only by the owner or owner's authorization. Class ICC-105A type tank cars may be used for any commodity for which they are authorized by the Committee on Tank Cars when stenciled accordingly. When a tank car is stenciled to indicate that it is authorized for one commodity only, it must not be used for any other service.

[Note 1 remains the same.]

SUBPART B—EXPLOSIVES; DEFINITION AND PREPARATION

In § 73.93 amend paragraph (d) (4) (17 F. R. 1560, Feb. 20, 1952) to read as follows:

§ 73.93 *Propellant explosives for cannon, small-arms, rockets, guided missiles, or other devices.* * * *

(d) * * *

(4) Spec. 103, 103-W, or 111A100-W-1 (§§ 78.265, 78.280 or 78.303 of this chapter). Tank cars.

SUBPART C—FLAMMABLE LIQUIDS; DEFINITION AND PREPARATION

1. In § 73.119 amend paragraphs (a) (12), (e) (2) and (f) (3) (21 F. R. 4564, June 26, 1956) to read as follows:

§ 73.119 *Flammable liquids not specifically provided for.* (a) * * *

(12) Spec. 103, 103-W, 103AL-W, 103D-W, 104, 104-W, 105A100, 105A100-W, 105A100AL-W, 105A200-W, 105A200AL-W, 105A300-W, 105A300AL-W, 105A400-W, 105A500-W, 105A600-W, 111A100-W-1, 111A100-W-3, 111A100-W-4, ARA-II,[2] ARA-III,[2] ARA-IV,[2] or ARA-IV-A[2] (§§ 78.265, 78.280, 78.291, 78.269, 78.284, 78.270, 78.285, 78.294, 78.286, 78.307, 78.308, 78.297, 78.287, 78.288, 78.289, 78.300, 78.303, 78.305 or 78.306 of this chapter). Tank cars. For cars equipped with expansion domes, manhole closures must be so designed that pressure will be released automatically by starting the operation of removing the manhole cover. (See § 73.432 for shipping instructions.)

* * * * *

(e) * * *

(2) Spec. 103, 103-W, 103AL-W, 103D-W, 104, 104-W, 105A100, 105A100-W, 105A100AL-W, 105A200-W, 105A200AL-W, 105A300-W, 105A300AL-W, 105A400-W, 105A500-W, 105A600-W, 111A100-W-1, 111A100-W-3, 111A100-W-4, ARA-II,[2] ARA-III,[2] ARA-IV,[2] or ARA-IV-A[2] (§§ 78.265, 78.280, 78.291, 78.297, 78.269, 78.284, 78.270, 78.285, 78.294, 78.307, 78.308, 78.286, 78.287, 78.288, 78.289, 78.300, 78.303, 78.305 or 78.306 of this chapter). Tank cars. Cars having expansion domes must be equipped with manhole closures, identification marks, and dome placards as prescribed in (f) (4), (g), (h) and (h) (1) of this section. (See Note 1 of paragraph (f) (3) of this section.)

* * * * *

(f) * * *

(3) Spec. 105A100, 105A100-W, 105A100AL-W, 105A200-W, 105A200AL-W, 105A300-W, 105A300AL-W, 105A400-W, 105A500-W, 105A600-W, 111A100-W-4, or ARA-IV-A[2] (§§ 78.270, 78.285, 78.294, 78.307, 78.308, 78.286, 78.300, 78.287, 78.288, 78.289, 78.306 of this chapter) (see Note 1 of this subparagraph). Tank cars. Spec. 104, 104-W, 111A100-W-3 and ARA-IV[2] (§§ 78.269, 78.284, and 78.305 of this chapter) tank cars are authorized under the conditions prescribed in paragraphs (f) (4), (g), (h) and (h) (1) of this section and Note 3 of this subparagraph.

[No change in notes.]

2. In § 73.123 amend paragraph (a) (5) (21 F. R. 4564, June 26, 1956) to read as follows:

§ 73.123 *Ethyl chloride.* (a) * * *

(5) Spec. 105A100, 105A100-W, 105A200-W, 105A300-W, 105A400-W,

105A500–W, 105A600–W, 111A100–W–4, or ARA–IV–A[1] (§§ 78.270, 78.285, 78.307, 78.286, 78.287, 78.288, 78.289, or 78.306 of this chapter). Tank cars. See Note 1 of § 73.119 (f) (3). (See § 73.432 for shipping instructions.)

3. In § 73.124 amend paragraph (a) (5) (21 F. R. 4564, June 26, 1956) to read as follows:

§ 73.124 *Ethylene oxide.* (a) * * *

(5) Spec. 105A100, 105A100–W, 111A100–W–4, or ARA–IV–A[1] (§§ 78.270, 78.285, or 78.306 of this chapter). Tank cars. See Note 1 of § 73.119 (f) (3). (See § 73.432 for shipping instructions.)

[Note 1 remains the same.]

4. In § 73.135 amend paragraph (a) (7) and (8) (21 F. R. 7600, Oct. 4, 1956) to read as follows:

§ 73.135 *Dimethyl dichlorosilane, ethyl dichlorosilane, ethyl trichlorosilane, methyl trichlorosilane, trimethyl chlorosilane, and vinyl trichlorosilane.* (a) * * *

(7) Spec. 103, 103–W, or 111A100–W–1 (§§ 78.265, 78.280, or 78.303 of this chapter). Tank cars, without bottom discharge outlet.

(8) Spec. 105A100, 105A100–W, 105A200–W, 105A300–W, or 111A100–W–4 (§§ 78.270, 78.285, 78.307, 78.286, or 78.306 of this chapter). Tank cars.

5. In § 73.136 amend paragraph (a) (6) and (7) (21 F. R. 7600, Oct. 4, 1956) to read as follows:

§ 73.136 *Methyl dichlorosilane and trichlorosilane.* (a) * * *

(6) Spec. 103, 103–W, or 111A100–W–1 (§§ 78.265, 78.280, or 78.303 of this chapter). Tank cars, without bottom discharge outlet.

(7) Spec. 105A100, 105A100–W, 105A200–W, 105A300–W, or 111A100–W–4 (§§ 78.270, 78.285, 78.286, 78.307, 78.306 of this chapter). Tank cars.

SUBPART D—FLAMMABLE SOLIDS AND OXIDIZING MATERIALS; DEFINITION AND PREPARATION

1. In § 73.163 amend paragraph (a) (6) (16 F. R. 9374, Sept. 15, 1951) to read as follows:

§ 73.163 *Chlorate of soda, chlorate of potash, and other chlorates.* (a) * * *

(6) Chlorates wet with 10 percent or more of water are authorized for shipment in tank cars, spec. 103, 103–W, or 111A100–W–1 (§§ 78.265, 78.280, or 78.303 of this chapter), when equally distributed therein.

2. In § 73.190 amend paragraph (b) (3) (21 F. R. 671, Jan. 31, 1956) to read as follows:

§ 73.190 *Phosphorus, white or yellow.* * * *

(b) * * *

(3) Spec. 103, 103–W, or 111A100–W–1 (§§ 78.265, 78.280, or 78.303 of this chapter). Tank cars without bottom outlet for discharge of lading and with approved dome fittings, external heater systems, and with insulation at least 4 inches in thickness, except that thickness of insulation may be reduced to 2 inches over external heater coils. Bottom washout nozzle of approved design may be applied. The material must be immersed in water and must be loaded at a temperature not exceeding 140° F. and then cooled until the water has a temperature not exceeding 105° F. before car is offered to carrier. The water must be loaded in the dome to not more than 50 percent of the capacity of the dome. After unloading, the tank must be filled to its entire capacity and the dome to not more than 50 percent of its capacity with water having a temperature not less than 105° F. and not over 140° F. and placarded with the caution placard prescribed in § 74.555 of this chapter, before the car is offered for return movement.

[Note 1 remains the same].

3. In § 73.224 amend paragraph (a) (3) (20 F. R. 4416, June 23, 1955) to read as follows:

§ 73.224 *Cumene hydroperoxide, dicumyl peroxide, and tertiary butylisopropyl benzene hydroperoxide.* (a) * * *

(3) Spec. 103A, 103A–W, or 111A100–W–2 (§§ 78.266, 78.281, or 78.304 of this chapter). Tank cars. Authorized for 90 percent or less cumene hydroperoxide in nonvolatile solution.

SUBPART E—ACIDS AND OTHER CORROSIVE LIQUIDS; DEFINITION AND PREPARATION

1. In § 73.247 amend paragraph (a) (6), (13), and (17) (22 F. R. 2226, Apr. 4, 1957) (21 F. R. 4564, June 26, 1956) (21 F. R. 3010, May 5, 1956) to read as follows:

§ 73.247 *Acetyl chloride, antimony pentachloride, benzoyl chloride, benzyl chloride, chromyl chloride, pyro sulfuryl chloride, silicon chloride, sulfur chloride (mono and di), sulfuryl chloride, thionyl chloride, tin tetrachloride (anhydrous), and titanium tetrachloride.* (a) * * *

(6) Spec. 103A, 103A–W, 105A300–W, 105A400–W, 105A500–W, 105A600–W, or 111A100–W–2 (§§ 78.266, 78.281, 78.286, 78.287, 78.288, 78.289, or 78.304 of this chapter) tank cars, except that for tin tetrachloride (anhydrous) spec. 105A–300–W, 105A400–W, 105A500–W, or 105A–600–W tank cars must be used. Benzyl chloride must be stabilized when loaded in unlined tanks.

* * * * *

(13) Spec. 103A, 103A–W, or 111A100–W–2 (§§ 78.266, 78.281, or 78.304 of this chapter) tank cars. Tank cars, nickel clad at least 10 percent, authorized for stabilized benzyl chloride only. Acetyl chloride, benzoyl chloride, pyro sulfuryl chloride, sulfuryl chloride, and thionyl chloride when shipped in unstabilized condition, must be anhydrous and free from impurities such as iron.

* * * * *

(17) Spec. 103–W or 111A100–W–1 (§§ 78.280 or 78.303 of this chapter), tank cars authorized for titanium tetrachloride, anhydrous only. Tank cars shall have no bottom outlets and shall have safety valves of approved type with start-to-discharge pressure of 35 pounds per square inch and of sufficient relieving capacity to prevent pressure build-up in excess of 45 pounds per square inch.

2. In § 73.248 amend paragraph (a) (4), and (5) (16 F. R. 9375, Sept. 15, 1951) to read as follows:

§ 73.248 *Acid sludge, sludge acid, spent sulfuric acid, or spent mixed acid.* (a) * * *

(4) Spec. 103A, 103A–W, or 111A100–W–2 (§§ 78.266, 78.281, or 78.304 of this chapter). Tank cars, provided the product is sufficiently liquid to be unloaded through the dome or manway.

(5) Spec. 103, 103–W, or 111A100–W–1 (§§ 78.265, 78.280, or 78.303 of this chapter). Tank cars, provided the product is too viscous to be unloaded through the dome or manway.

3. In § 73.249 amend paragraph (a) (5) (21 F. R. 4564, June 26, 1956) to read as follows:

§ 73.249 *Alkaline corrosive liquids, n. o. s., alkaline caustic liquids, n. o. s., and alkaline battery fluids.* (a) * * *

(5) Spec. 103, 103–W, 103A, 103A–W, 104, 104–W, 105A100, 105A100–W, 111A–100–W–1, 111A100–W–2, 111A100–W–3, or 111A100–W–4 (§§ 78.265, 78.280, 78.266, 78.281, 78.269, 78.284, 78.270, 78.285, 78.303, 78.304, 78.305, or 78.306 of this chapter). Tank cars.

4. In § 73.254 amend paragraph (a) (4) (21 F. R. 4564, June 26, 1956) to read as follows:

§ 73.254 *Chlorosulfonic acid and mixtures of chlorosulfonic acid-sulfur trioxide.* (a) * * *

(4) Spec. 103A, 103A–W, 103C–W, 103E–W, or 111A100–W–2 (§§ 78.266, 78.281, 78.283, 78.298, or 78.304 of this chapter). Tank cars.

5. In § 73.255 amend paragraph (a) (4) (16 F. R. 9375, Sept. 15, 1951) to read as follows:

§ 73.255 *Dimethyl sulfate.* (a) * * *

(4) Spec. 103A, 103A–W, or 111A100–W–2 (§§ 78.266, 78.281, or 78.304 of this chapter). Tank cars.

6. In § 73.264 amend paragraph (a) (8) (21 F. R. 4565, June 26, 1956) to read as follows:

§ 73.264 *Hydrofluoric acid.* (a) * * *

(8) Spec. 103A, 103A–W, 105A100, 105A100–W, 105A200–W, 105A300–W, 105A400–W, 105A500–W, 105A600–W, 111A100–W–2, 111A100–W–4, or ARA–IV[1] (§§ 78.266, 78.281, 78.270, 73.285, 78.307, 78.286, 78.287, 78.288, 78.289, 78.304, 78.306 of this chapter). Unlined metal tanks which have been subjected to adequate passivity or neutralization process. (See Note 1 to subparagraph (7) of this paragraph). Authorized only for acid of 60 to 80 percent strength. If tanks are washed out with water they must be resubjected to passivity before reshipment.

[Note 1 remains the same.]

7. In § 73.267 amend paragraph (a) (3) (16 F. R. 9375, Sept. 15, 1951) to read as follows:

§ 73.267 *Mixed acid (nitric and sulfuric acid) (nitrating acid).* (a) * * *

(3) Spec. 103A, 103A–W, or 111A100–W–2 (§§ 78.266, 78.281, or 78.304 of this chapter). Tank cars. (See paragraph (b) of this section.)

8. In § 73.271 amend paragraph (a) (7) and (9) (21 F. R. 4565, June 26, 1956) (18 F. R. 804, Feb. 7, 1953) to read as follows:

§ 73.271 *Phosphorus oxychloride, phosphorus trichloride, and thiophosphoryl chloride.* (a) * * *

(7) Spec. 103A–N–W (§ 78.299 of this chapter). Tank cars. Tank must be of solid nickel at least 99 percent pure and all cast metal parts of the tank in contact with the lading have a minimum nickel content of approximately 96.7 percent.

* * * * * *

(9) Spec. 103A, 103A–W or 111A100–W–2 (§§ 78.266, 78.281 or 78.304 of this chapter). Tank cars. Spec. 103A tanks must be made of steel at least 10 percent nickel clad or lead lined. Spec. 103A–W or 111A100–W–2 tanks must be of steel at least 20 percent nickel clad or lead lined.

9. In § 73.272 amend paragraph (h) (3) (21 F. R. 4565, June 26, 1956) to read as follows:

§ 73.272 *Sulfuric acid.* * * *

(h) * * *

(3) Spec. 103A, 103A–W, or 111A100–W–2 (§§ 78.266, 78.281, or 78.304 of this chapter). Tank cars. Sulfuric acid, except oleum, mixed acid (nitric and sulfuric) (nitrating acid), and other fuming acids, may be transported in 103A, 103A–W and 111A100–W–2 tank cars having safety vents equipped with lead discs having a ⅛ inch breather hole in the center thereof.

10. In § 73.273 amend paragraph (a) (4) (18 F. R. 5272, Sept. 1, 1953) to read as follows:

§ 73.273 *Sulfur trioxide, stabilized.* (a) * * *

(4) Spec. 103A, 103A–W, or 111A100–W–2 (§§ 78.266, 78.281, or 78.304 of this chapter). Tank cars. Authorized only for stabilized sulfur trioxide. Cars equipped with interior heater coils not permitted.

11. In § 73.274 amend paragraph (a) (3) (16 F. R. 9375, Sept. 15, 1951) to read as follows:

§ 73.274 *Fluosulfonic acid.* (a) * * *

(3) Spec. 103A, 103A–W, or 111A100–W–2 (§§ 78.266, 78.281, or 78.304 of this chapter). Tank cars.

12. In § 73.280 amend paragraph (a) (7) (21 F. R. 7601, Oct. 4, 1956) to read as follows:

§ 73.280 *Allyl trichlorosilane, amyl trichlorosilane, butyl trichlorosilane, cyclohexenyl trichlorosilane, cyclohexyl trichlorosilane, diethyl dichlorosilane, diphenyl dichlorosilane, dodecyl trichlorosilane, ethyl phenyl dichlorosilane, hexadecyl trichlorosilane, hexyl trichlorosilane, nonyl trichlorosilane, octadecyl trichlorosilane, octyl trichlorosilane, phenyl trichlorosilane, and propyl trichlorosilane.* (a) * * *

(7) Spec. 103–W, 103A, 103A–W, 105A–100, 105A100–W, 111A100–W–1, 111A100–W–2, or 111A100–W–4 (§§ 78.280, 78.266, 78.281, 78.270, 78.285, 78.303, 78.304, or 78.306 of this chapter). Tank cars.

SUBPART F—COMPRESSED GASES; DEFINITION AND PREPARATION

In § 73.314 amend paragraph (a) table; amend Notes 2, 11, and 12 to paragraph (a) table; amend paragraph (b) (22 F. R. 2227, 2228, Apr. 4, 1957) (21 F. R. 4565, June 26, 1956) to read as follows:

§ 73.314 *Compressed gases in tank cars.* (a) * * *

Kind of gas	Maximum permitted filling density, Note 1	Required type of tank car, Note 2
(*Change*)	*Percent*	
Butadiene (pressure not exceeding 75 pounds per square inch at 105° F.), inhibited.	Notes 3 and 6	ICC–106A500, 106A500X. ICC–105A100, 105A100–W, 111A100–W–4, Note 9.
Crude nitrogen fertilizer solution	Note 6	ICC–106A500, 106A500X. ICC–105A300–W, Note 5.
Crude nitrogen fertilizer solution (pressure not exceeding 75 pounds per square inch at 105° F.).	Note 6	ICC–106A500, 106A500X. ICC–105A100–AL–W, 109A100–AL–W, Note 5.
Dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture).	Note 6	ICC–106A500, 106A500X, 110A–500–W, Note 12. ICC–105A300–W.
Difluoroethane	79	ICC–106A500, 106A500X, 110A–500–W, Notes 12, 19.
Fertilizer ammoniating solution containing free ammonia.	Note 6	ICC–106A500, 106A500X. ICC–105A300–W, Note 5.
Fertilizer ammoniating solution containing free ammonia (pressure not exceeding 75 pounds per square inch at 105° F.).	Note 6	ICC–106A500, 106A500X. ICC–105A100–AL–W, 109A100–AL–W, Note 5.
Fertilizer ammoniating solution containing free ammonia (pressure not exceeding 150 pounds per square inch at 105° F.).	Note 6	ICC–106A500, 106A500X. ICC–105A200–AL–W, Note 5.
Liquid hydrocarbon gas (pressure not exceeding 75 pounds per square inch at 105° F.).	Note 6	ICC–105A100, 105A100–W, 111A100–W–4, Note 9.
Liquefied petroleum gas (pressure not exceeding 75 pounds per square inch at 105° F.).	Note 3	ICC–105A100, 105A100–W, 111A100–W–4, Note 9.
Liquefied petroleum gas (pressure not exceeding 150 pounds per square inch at 105° F.).	Note 3	ICC–105A200–W, Note 9.
Nitrogen fertilizer solution	Note 6	ICC–106A500, 106A500X. ICC–105A300–W, Note 5.
Nitrogen fertilizer solution (pressure not exceeding 75 pounds per square inch at 105° F.).	Note 6	ICC–106A500, 106A500X. ICC–105A100–AL–W, 109A100–AL–W, Note 5.
Sulfur dioxide	125	ICC–106A500, 106A500X, 110A500–W, Note 12. ICC–105A200–W.
Trifluorochloroéthylene	115	ICC–106A500, 106A500X, 110A500–W, Note 12.
	120	ICC–105A300–W, Note 9.
Vinyl chloride, inhibited (see Note 14)	84	ICC–106A500, 106A500X, Note 12.
	87	ICC–105A200–W, Note 9.

* * * * * * * * *

NOTE 2: Unless otherwise specifically provided, when class 105A–W, 105A–AL–W, 106A500, or 106A500X tank cars are prescribed, the same class tank cars having higher marked test pressures than those prescribed may also be used.

* * * * * * * * *

NOTE 11: Before an ICC–105A500–W or ICC–105A600–W (§§ 78.288 or 78.289 of this chapter) tank car may be used for the transportation of liquefied carbon dioxide, the following requirements must be met: Tank must be lagged with an approved insulation material of a thickness so that the thermal conductance is not more than 0.03 B. t. u. per square foot per degree F. differential in temperature per hour; except that the insulation thickness directly over the center sills may be reduced to give thermal conductance not exceeding 0.04 B. t. u. per square foot, per degree F. differential in temperature per hour; this reduction is to permit an anchorage which must not exceed seven (7) inches from top of center sills to bottom of tank. Tank must be equipped with one safety valve of approved design set to open at a pressure not exceeding three-fourth of the test pressure of the tank and one frangible disc device of approved design set to function at a pressure less than the test pressure of the tank. The discharge capacity of each of these safety devices must be sufficient to prevent building up of pressure in tank in excess of three-fourths of the test pressure of the tank. Tanks must be equipped with two (2) pressure-regulating valves of approved design, set to open at a pressure not to exceed 350 pounds per square inch on 105A500–W (§ 78.288 of this chapter) tanks and at a pressure not to exceed 400 pounds per square inch on 105A600–W (§ 78.289 of this chapter) tanks. Each regulating valve and safety device must have its final discharge piped to the outside of the protective housing.

NOTE 12: Tanks complying with specification 106A500 or 106A500X (§ 78.275 of this chapter) containing chlorine, anhydrous ammonia, sulfur dioxide, methyl chloride, methyl mercaptan, dichlorodifluoromethane, monochlorodifluoromethane, monochlorotetrafluoroethane, vinyl chloride, inhibited, difluoroethane, difluoromonochloroethane, dispersant gas, n. o. s., refrigerant gas, n. o. s., dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture), dichlorodifluoromethane - monofluorotrichloromethane mixture, trifluorochloroethylene, dichlorodifluoromethane-dichlorotetrafluoroethane mixture, dichlorodifluoromethane-trichlorotrifluoroethane mixture; dichlorodifluoromethane - monochlorodifluoromethane mixture, or dichlorodifluoromethane-trichloromonofluoromethane - monochlorodifluoromethane mixture; tanks complying with specification 110A500–W (§ 78.293 of this chapter), containing dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture), trifluorochloroethylene, dichlorodifluoromethane, monochlorodifluoromethane, dichlorodifluoromethane-monofluorotrichloromethane mixture, dichlorodifluoromethane - dichlorotetrafluoroethane mixture, dichlorodifluoromethane-trichlorotrifluoroethane mixture, dichlorodifluoromethane-monochlorodifluoromethane mixture, dichlorodifluoromethane - trichloromonofluoromethane - monochlorodifluoromethane mixture, dispersant gas, n. o. s., or refrigerant gas, n. o. s.; tanks complying with specification 106A800 or 106A800X (§ 78.276 of this chapter), containing hydrogen sulfide; or tanks complying with specification 106A800NCI (§ 78.295 of this chapter), containing nitrosyl chloride, may be transported on trucks or semi-trailers only, when securely chocked or clamped thereon to prevent shifting, and provided adequate facilities are present for handling tanks where transfer in transit is necessary. See § 74.560 of this chapter, for rail freight-motor vehicle shipments.

(b) The gas pressure at 105° F. in any lagged tank of tank cars of specs. 105A100, 105A100–W, 105A100–AL–W, 105A200–W, 105A200–AL–W, 105A300–W,

105A300–AL–W, 105A400–W, 105A500–W, 105A600–W, 109A300–W, 109A100–AL–W, or 111A100–W–4 (§§ 78.270, 78.285, 78.294, 78.307, 78.308, 78.286, 78.300, 78.287, 78.288, 78.289, 78.301, 78.302, or 78.306 of this chapter) and at 130° F. in any unlagged tank of tank cars of specs. 106A500, 106A500X, 106A800, 106A800X, or 110A500–W (§§ 78.275, 78.276, or 78.293 of this chapter) must not exceed three-fourths times the prescribed retest pressure of the tank. The gas pressure at 130° F. in any unlagged tank of tank cars of the 107A (§ 78.277 of this chapter) series must not exceed seven-tenths of the marked test pressure of the tank.

[No change in Note 1.]

* * * * *

SUBPART G—POISONOUS ARTICLES; DEFINITION AND PREPARATION

1. In § 73.346 amend paragraph (a) (10) (21 F. R. 4565, June 26, 1956) to read as follows:

§ 73.346 *Poisonous liquids not specifically provided for.* (a) * * *

(10) Spec. 103, 103–W, 103A, 103A–W, 104, 104–W, 105A100, 105A100–W, 105A200–W, 105A300–W, 105A400–W, 105A500–W, 105A600–W, 111A100–W–1; 111A100–W–2, 111A100–W–3, 111A100–W–4 (§§ 78.265, 78.280, 78.266, 78.281, 78.269, 78.284, 78.270, 78.285, 78.307, 78.286, 78.287, 78.288, 78.289, 78.303, 78.304, 78.305, 78.306 of this chapter), or ARA–IV–A.[1] Tank cars.

2. § 73.347 amend paragraph (a) (2) (16 F. R. 9378, Sept. 15, 1951) to read as follows:

§ 73.347 *Aniline oil.* (a) * * *

(2) Spec. 103, 103–W, 103A, 103A–W, 111A100–W–1, or 111A100–W–2 (§§ 78.265, 78.280, 78.266, 78.281, 78.303, or 78.304 of this chapter). Tank cars.

3. In § 78.352 amend paragraph (a) (4) (16 F. R. 9378, Sept. 15, 1951) to read as follows:

§ 73.352 *Liquid sodium or potassium cyanide.* (a) * * *

(4) Spec. 103, 103–W, 103A, 103A–W, 111A100–W–1, or 111A100–W–2 (§§ 78.265, 78.280, 78.266, 78.281, 78.303, or 78.304 of this chapter). Tank cars.

4. In § 73.353 amend paragraphs (a) (5) and (b) (21 F. R. 4565, June 26, 1956) to read as follows:

§ 73.353 *Methyl bromide.* (a) * * *

(5) Spec. 105A100, 105A100–W, 105A200–W 105A300–W, 105A400–W, 105A500–W, 105A600–W, 106A500, 106A500X, 106A800, or 111A100–W–4 (§§ 78.270, 78.285, 78.307, 78.286, 78.287, 78.288, 78.289, 78.275, 78.276, or 78.306 of this chapter). Tank cars.

(b) Outage must be sufficient to prevent tank car from becoming entirely filled with liquid at the following temperature: Spec. 105A100, 105A100–W, 105A200–W, 105A300–W, 105A400–W, 105A500–W, 105A600–W, or 111A100–W–4 (§§ 78.270, 78.285, 78.307, 78.286, 78.287, 78.288, 78.289, or 78.306 of this chapter) at 105° F.; spec. 106A500, 106A500X, 106A800, or 106A800X (§§ 78.275, 78.276 of this chapter) at 130° F.

5. In § 73.365 amend paragraph (a) (13) (16 F. R. 9379, Sept. 15, 1951) to read as follows:

§ 73.365 *Poisonous solids not specifically provided for.* (a) * * *

(13) Spec. 103, 103–W, 103A, 103A–W, 111A100–W–1, or 111A100–W–2 (§§ 78.265, 78.280, 78.266, 78.281, 78.303, or 78.304 of this chapter). Tank cars.

6. In § 73.369 amend paragraph (a) (13) (16 F. R. 9379, Sept. 15, 1951) to read as follows:

§ 73.369 *Carbolic acid (phenol), not liquid.* (a) * * *

(13) Spec. 103, 103–W, 103–AL–W, 103A, 103A–W, 103A–AL–W, 111A100–W–1, or 111A100–W–2 (§§ 78.265, 78.280, 78.291, 78.266, 78.281, 78.292, 78.303, or 78.304 of this chapter). Tank cars.

PART 77—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

SUBPART B—LOADING AND UNLOADING

In § 77.840 amend paragraph (c) (22 F. R. 2229, Apr. 4, 1957) to read as follows:

§ 77.840 *Compressed gases.* * * *

(c) Tanks complying with specification 106A500 or 106A500X (§ 78.275 of this chapter) containing chlorine, anhydrous ammonia, sulfur dioxide, methyl chloride, methyl mercaptan, dichlorodifluoromethane, monochlorodifluoromethane, monochlorotetrafluoroethane, vinyl chloride, inhibited, difluoroethane, difluoromonochloroethane, dispersant gas, n. o. s., refrigerant gas, n. o. s., dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture), dichlorodifluoromethane monofluorotrichloromethane mixture, trifluorochloroethylene, dichlorodifluoromethane-dichlorotetrafluoroethane mixture, dichlorodifluoromethane-trichlorotrifluoroethane mixture, dichlorodifluoromethane - monochlorodifluoromethane mixture, or dichlorodifluoromethane-trichloromonofluoromethane-monochlorodifluoromethane mixture; tanks complying with specification 110A500–W (§78.293 of this chapter), containing dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture), trifluorochloroethylene, dichlorodifluoromethane, monochlorodifluoromethane, dichlorodifluoromethane-monofluorotrichloromethane mixture, dichlorodifluoromethane - dichlorotetrafluoroethane mixture, dichlorodifluoromethane-trichlorotrifluoroethane mixture, dichlorodifluoromethane-monochlorodifluoromethane mixture, dichlorodifluoromethane - trichloromonofluoromethane-monochlorodifluoromethane mixture, dispersant gas, n. o. s., or refrigerant gas, n. o. s.; tanks complying with specification 106A800 or 106A800X (§ 78.276 of this chapter), containing hydrogen sulfide; or tanks complying with specification 106A800NCI (§ 78.295 of this chapter), containing nitrosyl chloride, may be transported on trucks or semi-trailers only, when securely chocked or clamped thereon to prevent shifting, and provided adequate facilities are present for handling tanks where transfer in transit is necessary. See § 74.560 (b) (1) of this chapter.

PART 78—SHIPPING CONTAINER SPECIFICATIONS

SUBPART I—SPECIFICATIONS FOR TANK CARS

1. In § 78.265–2 amend paragraph (a); in § 78.265–5 amend paragraph (a), and cancel paragraph (e); in § 78.265–7 amend paragraph (b); in § 78.265–14 amend paragraph (b) and (c), and cancel paragraph (d) (21 F. R. 4567, 4568, June 26, 1956) (21 F. R. 9364, Nov. 30, 1956) to read as follows:

§ 78.265 *Specification ICC–103; riveted steel tanks to be mounted on or forming part of a car.*

§ 78.265–2 *Lagging.* (a) Not a specification requirement. If applied, the tank shell and expansion dome must be lagged with an approved insulation material. The entire insulation must be covered with a metal jacket not less than 1/8 inch in thickness and efficiently flashed around all openings so as to be weather-tight.

§ 78.265–5 *Material.* (a) All plates for tank and expansion dome must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification. These plates may also be clad with other metals, such as nickel.

* * * * *

(e) [Canceled.]

§ 78.265–7 *Riveting.* * * *

(b) All seams formed in the manufacture of the tank and expansion dome proper and the attachment of the expansion dome to the tank must be double-riveted. Dome head, manway ring, safety valve flange and bottom outlet nozzle flange may be single or double-riveted. Riveted seams and joints must be made metal to metal without interposition of other material, with the exception that the use of 2 liners not to exceed 1 inch in width and 1/16 inch in thickness, placed at an angle across the longitudinal seams between 2 rows of rivets near the internal tank heads on compartment cars to prevent the liquid from passing along the longitudinal seams from one compartment to another while cars are being water tested, will be permissible. The efficiency of double-riveted seams must be at least 60 percent of the strength of the thinnest plate specified in § 78.265–4 (a) (1), (b), and (c). The efficiency of single-riveted seams must be at least 40 percent of the strength of the thinnest plate specified in § 78.265–4 (a) (1), (b), and (c). Use of rivets of less than 5/8 inch nominal diameter not permissible on any part of tank or attachments.

§ 78.265–14 *Safety valves.* * * *

(b) Each safety valve must be set for a start-to-discharge pressure of 35 pounds per square inch and be vapor tight at 28 pounds per square inch. (For tolerance see § 78.265–19 (a).)

NOTE 1: Tank cars built prior to June 30, 1957 may be equipped with 25 psi. safety valves.

(c) Tanks used for the transportation of corrosive liquids, flammable solids, oxidizing materials, or poisonous liquids or solids, class B, need not be equipped with safety valves, but if not so equipped must have one safety vent at least 1¾ inches inside diameter closed with a frangible disc of lead or other suitable material of a thickness that will rupture at not more than 45 pounds per square inch. Means for holding disc in place must be such as to prevent distortion or damage to disc when applied. Safety vent closure must be chained or otherwise fastened to prevent misplacement. All tanks equipped with vents must be stenciled "Not For Flammable Liquids".

(d) [Canceled.]

2. In § 78.266–2 amend paragraph (a); in § 78.266–5 amend paragraph (a), and cancel paragraph (e); in § 78.266–7 amend paragraph (b); in § 78.266–10 amend paragraph (b) (21 F. R. 4569, 4570, June 26, 1956) to read as follows:

§ 78.266 *Specification ICC–103A; riveted steel tanks to be mounted on or forming part of a car.*

§ 78.266–2 *Lagging.* (a) Not a specification requirement. If applied, the tank shell and expansion dome must be lagged with an approved insulation material. The entire insulation must be covered with a metal jacket not less than ⅛ inch in thickness and efficiently flashed around all openings so as to be weather-tight.

§ 78.266–5 *Material.* (a) All plates for tank and expansion dome must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification. These plates may also be clad with other metals, such as nickel.

* * * * *

(e) [Canceled.]

§ 78.266–7 *Riveting.* * * *

(b) All seams formed in the manufacture of the tank and expansion dome proper and the attachment of the expansion dome to the tank must be double-riveted. Dome head, manway ring, safety vent flange and bottom washout nozzle flange may be single or double-riveted. Riveted seams and joints must be made metal to metal without interposition of other material with the exception that the use of two liners not to exceed one inch in width and 1/16 inch in thickness, placed at an angle across the longitudinal seams between two rows of rivets near the internal tank heads on compartment cars to prevent the liquid from passing along the longitudinal seams from one compartment to another while cars are being water tested, will be permissible. The efficiency of double-riveted seams must be at least 60 percent of the strength of the thinnest plate specified in § 78.266–4 (a) (1), (b), and (c). The efficiency of single-riveted seams must be at least 40 percent of the strength of the thinnest plate specified in § 78.266–4 (a) (1), (b), and (c). Use of rivets less than ⅝ inch nominal diameter not permissible on any part of tank or attachments.

§ 78.266–10 *Expansion dome.* * * *

(b) The opening in manway ring must be 16 inches in diameter. The opening in the tank shell within the dome must be at least 29 inches in diameter. When the opening in the tank shell exceeds 30 inches in diameter the opening must be reinforced in an approved manner. When the opening in the tank shell is less than the inside diameter of the dome, and the dome pocket is not closed off in an approved manner, dome pocket drain holes must be provided in the tank shell with nipples extending inside the tank at least 1 inch and the joint between the base of the dome and the tank shell must be sealed on the inside in an approved manner.

3. In § 78.267–2 amend paragraph (a); in § 78.267–5 amend paragraph (a); in § 78.267–7 amend paragraph (b) (21 F. R. 4571, 4572, June 26, 1956) to read as follows:

§ 78.267 *Specification ICC–103B; rubber lined riveted steel tanks to be mounted on or forming part of a car.*

§ 78.267–2 *Lagging.* (a) Not a specification requirement. If applied, the tank shell and expansion dome must be lagged with an approved insulation material. The entire insulation must be covered with a metal jacket not less than ⅛ inch in thickness and efficiently flashed around all openings so as to be weather-tight.

§ 78.267–5 *Material.* (a) All plates for tank and expansion dome must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification.

§ 78.267–7 *Riveting.* * * *

(b) All seams formed in the manufacture of the tank and expansion dome proper and the attachment of the expansion dome to the tank must be double-riveted. Dome head, manway ring, safety vent flange and sump flange may be single or double-riveted. Riveted seams and joints must be made metal to metal without interposition of other material with the exception that the use of two liners not to exceed 1 inch in width and 1/16 inch in thickness, placed at an angle across the longitudinal seams between two rows of rivets near the internal tank heads on compartment cars to prevent the liquid from passing along the longitudinal seams from one compartment to another while car is being water tested, will be permissible. The efficiency of double-riveted seams must be at least 60 percent of the strength of the thinnest plate specified in § 78.267–4 (a) (1) and (b). The efficiency of single-riveted seams must be at least 40 percent of the strength of the thinnest plate specified in § 78.267–4 (a) (1) and (b). Use of rivets less than ⅝ inch nominal diameter not permissible on any part of the tank or attachments. All rivet heads on the inside of tank must be of uniform size, button head or similar shape, and the under surface of the heads must be driven tight against shell.

4. In § 78.269–5 amend paragraph (a), and cancel paragraph (e); in § 78.269–7 amend paragraph (b); in § 78.269–14 amend paragraphs (b), (c), and cancel paragraph (d) (21 F. R. 4574, 4575, June 26, 1956) to read as follows:

§ 78.269 *Specification ICC–104; lagged riveted steel tanks to be mounted on or forming part of a car.*

§ 78.269–5 *Material.* (a) All plates for tank and expansion dome must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification. These plates may also be clad with other metals, such as nickel.

* * * * *

(e) [Canceled.]

§ 78.269–7 *Riveting.* * * *

(b) All seams formed in the manufacture of the tank and expansion dome proper and the attachment of the expansion dome to the tank must be double-riveted. Dome head, manway ring, safety valve flange and bottom outlet nozzle flange may be double-riveted. Riveted seams and joints must be made metal to metal without interposition of other material with the exception that the use of two liners not to exceed 1 inch in width and 1/16 inch in thickness, placed at an angle across the longitudinal seams between two rows of rivets near the internal tank heads on compartment cars to prevent the liquid from passing along the longitudinal seams from one compartment to another while cars are being water tested, will be permissible. The efficiency of double-riveted seams must be at least 60 percent of the strength of the thinnest plate specified in § 78.269–4 (a) (1), (b) and (c). The efficiency of single-riveted seams must be at least 40 percent of the strength of the thinnest plate specified in § 78.269–4 (a) (1), (b) and (c). Use of rivets less than ⅝ inch nominal diameter not permissible on any part of tank or attachments.

§ 78.269–14 *Safety valves.* * * *

(b) Each safety valve must be set for a start-to-discharge pressure of 35 pounds per square inch and be vapor tight at 28 pounds per square inch. (For tolerance see § 78.269–19 (a).)

NOTE 1: Tank cars built prior to June 30, 1957 may be equipped with 25 psi. safety valves.

(c) Tanks used for the transportation of corrosive liquids, flammable solids, oxidizing materials, or poisonous liquids or solids, class B, need not be equipped with safety valves, but if not so equipped must have one safety vent at least 1¾ inches inside diameter closed with a frangible disc of lead or other suitable material of a thickness that will rupture at not more than 45 pounds per square inch. Means for holding disc in place must be such as to prevent distortion or damage to disc when applied. Safety vent closure must be chained or otherwise fastened to prevent misplacement. All tanks equipped with vents must be stenciled "Not For Flammable Liquids".

(d) [Canceled.]

5. In § 78.270–6 amend paragraph (a), and cancel paragraph (e); in § 78.270–8 amend paragraph (b); in § 78.270–13 amend paragraphs (a) and (b); in § 78.270–18 amend paragraph (a) (21 F. R. 4577, 4578 June 26, 1956) to read as follows:

§ 78.270 *Specification ICC–105A100; lagged riveted steel tanks to be mounted on or forming part of a car.*

§ 78.270–6 *Material.* (a) All plates for tank and manway nozzle must be made of open-hearth boiler-plate flange

or firebox quality steel to an approved specification. These plates may also be clad with other metals, such as nickel.

* * * * *

(e) [Canceled.]

§ 78.270–8 *Riveting.* * * *

(b) All seams formed in the manufacture of the tank and the attachment of manway nozzle to tank must be double-riveted. Riveted seams and joints must be made metal to metal without interposition of other material. The efficiency of the double-riveted seams must be at least 60 percent of the strength of the thinnest plate.

§ 78.270–13 *Safety valves.* (a) The tank must be equipped with one or more safety valves of approved design, made of metal not subject to rapid deterioration by lading and mounted on manway cover. The total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 85 pounds per square inch.

(b) The safety valve must be set for a start-to-discharge pressure of 75 pounds per square inch. (For tolerance see § 78.270–18 (a).)

§ 78.270–18 *Tests of safety valves.* (a) Each valve must be tested by air or gas before being put into service. The valve must start to discharge at a pressure of 75 pounds per square inch and be vapor tight at 60 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination. The valve must start to discharge at the pressure prescribed in § 78.270–13 (b) with a tolerance of plus or minus 3 pounds.

6. In § 78.280–2 amend paragraph (a); in § 78.280–5 amend paragraph (a), and cancel paragraph (e); in § 78.280–9 amend paragraph (a); in § 78.280–16 amend paragraphs (b), (c), and (d), and cancel paragraph (e); in § 78.280–22 amend paragraph (a) (1) (21 F. R. 4585, 4586, 4587, and 4588, June 26, 1956) to read as follows:

§ 78.280 Specification ICC–103–W; fusion-welded steel tank to be mounted on or forming part of a car.

§ 78.280–2 *Lagging.* (a) Not a specification requirement. If applied, the tank shell and expansion dome must be lagged with an approved insulation material. The entire insulation must be covered with a metal jacket not less than ⅛ inch in thickness and efficiently flashed around all openings so as to be weather-tight.

§ 78.280–5 *Material.* (a) All plates for tank and expansion dome must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification, the carbon content of which shall not exceed 0.31 percent. These plates may also be clad with other metals, such as nickel.

* * * * *

(e) [Canceled.]

§ 78.280–9 *Stress-relieving.* (a) All welding of the tank shell and of attachments welded directly thereto must be stress-relieved as a unit. (See A. A. R. Appendix W.)

§ 78.280–16 *Safety valves.* * * *

(b) Each safety valve must be set for a start-to-discharge pressure of 35 pounds per square inch and be vapor tight at 28 pounds per square inch. (For tolerance see § 78.280–21 (a).)

NOTE 1: Tank cars built prior to June 30, 1957, may be equipped with 25 psi. safety valves.

(c) Tanks used for the transportation of corrosive liquids, flammable solids, oxidizing materials, or poisonous liquids or solids, class B, need not be equipped with safety valves, but if not so equipped must have 1 safety vent at least 1¼ inches inside diameter closed with a frangible disc of lead or other suitable material of a thickness that will rupture at not more than 45 pounds per square inch. Means for holding disc in place must be such as to prevent distortion or damage to disc when applied. Safety vent closure must be chained or otherwise fastened to prevent misplacement. All tanks equipped with vents must be stenciled "Not For Flammable Liquids".

(d) Safety valve or safety vent flanges, if welded to dome, must be of cast, forged or fabricated metal, and be of good weldable quality in conjunction with metal of dome.

(e) [Canceled.]

§ 78.280–22 *Marking.* (a) * * *

(1) ICC–103–W in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If tanks are fabricated from ASTM A–212 Grade A or B steel, the specification number of this material must also be stamped in letters and figures at least ⅜ inch high into the metal near the center of both outside heads by the tank builder. ICC–103–W must also be stenciled on the tank, or jacket if lagged, in letters and figures at least 2 inches high by the party assembling the completed car.

7. In § 78.281–2 amend paragraph (a); in § 78.281–5 amend paragraph (a), and cancel paragraph (e); in § 78.281–9 amend paragraph (a); in § 78.281–21 amend paragraph (a) (1) (21 F. R. 4588 to 4590, June 26, 1956) to read as follows:

§ 78.281 Specification ICC–103A–W; fusion-welded steel tanks to be mounted on or forming part of a car.

§ 78.281–2 *Lagging.* (a) Not a specification requirement. If applied, the tank shell and expansion dome must be lagged with an approved insulation material. The entire insulation must be covered with a metal jacket not less than ⅛ inch in thickness and efficiently flashed around all openings so as to be weather-tight.

§ 78.281–5 *Material.* (a) All plates for tank and expansion dome must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification, the carbon content of which shall not exceed 0.31 percent. These plates may also be clad with other metals, such as nickel.

* * * * *

(e) [Canceled.]

§ 78.281–9 *Stress-relieving.* (a) All welding of the tank shell and of attachments welded directly thereto must be stress-relieved as a unit. (See A. A. R. Appendix W.)

§ 78.281–21 *Marking.* (a) * * *

(1) ICC–103A–W in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal near the center of both outside heads by the tank builder. If tanks are fabricated from ASTM A–212 Grade A or B steel, the specification number of this material must also be stamped in letters and figures at least ⅜ inch high into the metal near the center of both outside heads by the tank builder. ICC–103A–W must also be stenciled on the tank, or jacket if lagged, in letters and figures at least 2 inches high by the party assembling the completed car.

8. In § 78.282–2 amend paragraph (a); in § 78.282–5 amend paragraph (a); in § 78.282–9 amend paragraph (a); in § 78.282–20 amend paragraph (a) (1) (21 F. R. 4590 to 4592, June 26, 1956) to read as follows:

§ 78.282 Specification ICC–103B–W; rubber lined fusion-welded steel tanks to be mounted on or forming part of a car.

§ 78.282–2 *Lagging.* (a) Not a specification requirement. If applied, the tank shell and expansion dome must be lagged with an approved insulation material. The entire insulation must be covered with a metal jacket not less than ⅛ inch in thickness and efficiently flashed around all openings so as to be weather-tight.

§ 78.282–5 *Material.* (a) All plates for tank and expansion dome must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification, the carbon content of which shall not exceed 0.31 percent.

§ 78.282–9 *Stress-relieving.* (a) All welding of the tank shell and of attachments welded directly thereto must be stress-relieved as a unit. (See A. A. R. Appendix W.)

§ 78.282–20 *Marking.* (a) * * *

(1) ICC–103B–W in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal near the center of both outside heads by the tank builder. If tanks are fabricated from ASTM A–212 Grade A or B steel, the specification number of this material must also be stamped in letters and figures at least ⅜ inch high into the metal near the center of both outside heads by the tank builder. ICC–103B–W must also be stenciled on the tank, or jacket if lagged, in letters and figures at least 2 inches high by the party assembling the completed car.

9. In § 78.283–2 amend paragraph (a); in § 78.283–9 amend paragraph (a); in § 78.283–13 amend paragraphs (a) and (b); in § 78.283–15 amend paragraphs (a) and (c) (21 F. R. 4593, 4594, June 26, 1956) to read as follows:

§ 78.283 Specification ICC–103C–W; fusion-welded alloy steel tanks to be mounted on or forming part of a car.

§ 78.283–2 *Lagging.* (a) Not a specification requirement. If applied, the tank shell and expansion dome must be lagged with an approved insulation ma-

terial. The entire insulation must be covered with a metal jacket not less than ⅛ inch in thickness and efficiently flashed around all openings so as to be weather-tight.

§ 78.283–9 *Heat treatment.* (a) All welding of the tank shell and of attachments welded directly thereto must be heat treated as a unit to remove stresses and at the proper temperature to obtain the corrosion resistance specified in § 78.283–5 (a) (1). (See A. A. R. Appendix W.)

§ 78.283–13 *Gauging, venting, loading and unloading, and air inlet devices extending through domes of tanks.* (a) When installed these devices must be of approved design, made of material complying with the current requirements of § 78.283–5 (a), and must be tightly closed. Protective housing of approved design covering all these devices must be installed. Unloading pipe must be securely anchored within the tank.

(b) When the characteristics of the commodity for which the car is authorized are such that these devices must be equipped with valves to provide for the loading and unloading of the contents these valves shall be of approved design. Provision must be made for closing pipe connections of valves.

§ 78.283–15 *Safety valves.* (a) The tank must be equipped with one or more safety valves of approved design, mounted on top of expansion dome. Total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 45 pounds per square inch.

* * * * *

(c) The safety valve must be set for a start-to-discharge pressure of 35 pounds per square inch and be vapor tight at 28 pounds per square inch. (For tolerance see § 78.283–20 (a).)

10. In § 78.284–5 amend paragraph (a), and cancel paragraph (e); in § 78.284–9 amend paragraph (a); in § 78.284–16 amend paragraphs (b), (c), (d) and cancel paragraph (e); in § 78.284–22 amend paragraph (a) (1), cancel paragraph (a) (9) and redesignate paragraph (a) (10) as paragraph (a) (9) (21 F. R. 4594 to 4597, June 26, 1956) to read as follows:

§ 78.284 *Specification ICC–104–W; lagged fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.284–5 *Material.* (a) All plates for tank and expansion dome must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification, the carbon content of which shall not exceed 0.31 percent. These plates may also be clad with other metals, such as nickel.

* * * * *

(e) [Canceled.]

§ 78.284–9 *Stress-relieving.* (a) All welding of the tank shell and of attachments welded directly thereto must be stress-relieved as a unit. (See A. A. R. Appendix W.)

§ 78.284–16 *Safety valves.* * * *

(b) Each safety valve must be set for a start-to-discharge pressure of 35 pounds per square inch and be vapor tight at 28 pounds per square inch. (For tolerance see § 78.284–21 (a).)

NOTE 1: Tank cars built prior to June 30, 1957 may be equipped with 25 psi. safety valves.

(c) Tanks used for the transportation of corrosive liquids, flammable solids, oxidizing materials, or poisonous liquids or solids, class B, need not be equipped with safety valves, but if not so equipped, must have one safety vent at least 1¾ inches inside diameter closed with a frangible disc of lead or other suitable material of a thickness that will rupture at not more than 45 pounds per square inch. Means for holding disc in place must be such as to prevent distortion or damage to disc when applied. Safety vent closures must be chained or otherwise fastened to prevent misplacement. All tanks equipped with vents must be stenciled "Not For Flammable Liquids".

(d) Safety valve or safety vent flanges, if welded to dome, must be of cast, forged or fabricated metal, and be of good weldable quality in conjunction with metal of dome.

(e) [Canceled].

§ 78.284–22 *Marking.* (a) * * *

(1) ICC–104–W in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If tanks are fabricated from ASTM A–212 Grade A or B steel, the specification number of this material must also be stamped in letters and figures at least ⅜ inch high into the metal near the center of both outside heads of the tank by the tank builder. ICC–104–W must also be stenciled on the jacket in letters and figures at least 2 inches high by the party assembling the completed car.

* * * * *

(9) Tanks made of clad plates must be stenciled on the jacket "(naming material) _____ clad tank". Lined tanks must be stenciled on the jacket "(naming material) _____ _____ lined tank". These marks must be in letters at least 2 inches high, immediately above the stenciled mark specified in subparagraph (1) of this paragraph.

11. In § 78.285–3 amend paragraph (a); in § 78.285–4 amend paragraph (a); in § 78.285–6 amend paragraph (a), and cancel paragraph (d); in § 78.285–9 amend paragraph (a); in § 78.285–13 amend paragraphs (a) and (b); in § 78.285–17 amend paragraph (a); in § 78.285–18 amend paragraph (a) (1) (21 F. R. 4597, 4598, June 26, 1956) to read as follows:

§ 78.285 *Specification ICC–105A100–W; lagged fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.285–3 *Bursting pressure.* (a) The calculated bursting pressure, based on the lowest tensile strength of the plate and the efficiency of the longitudinal welded joint, must be at least 500 pounds per square inch.

§ 78.285–4 *Thickness of plates.* (a) The wall thickness in the cylindrical portion of the tank and tank heads must be calculated by the following formula, but in no case shall the wall thickness be less than that specified in § 78.285–4 (b):

$$t=\frac{Pd}{2SE}$$

where t=thickness in inches of thinnest plate; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch; E=efficiency of longitudinal welded joint=90 percent.

§ 78.285–6 *Material.* (a) All plates for tank and manway nozzle must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification, the carbon content of which shall not exceed 0.31 percent. These plates may also be clad with other metals, such as nickel.

* * * * *

(d) [Canceled.]

§ 78.285–9 *Stress-relieving.* (a) All welding of the tank shell and of attachments welded directly thereto must be stress-relieved as a unit. (See A. A. R. Appendix W.)

§ 78.285–13 *Safety valves.* (a) The tank must be equipped with one or more safety valves of approved design, made of metal not subject to rapid deterioration by lading and mounted on manway cover. The total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 85 pounds per square inch.

(b) The safety valves must be set for a start-to-discharge pressure of 75 pounds per square inch. (For tolerance see § 78.285–17 (a).)

§ 78.285–17 *Tests of safety valves.* (a) Each valve must be tested by air or gas before being put into service. The valve must start-to-discharge at a pressure of 75 pounds per square inch and be vapor tight at 60 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination. The valve must start to discharge at the pressure prescribed in § 78.285–13 (b) with a tolerance of plus or minus 3 pounds.

§ 78.285–18 *Marking.* (a) * * *

(1) ICC–105A100–W in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If tanks are fabricated from ASTM A–212 Grade A or B steel, the specification number of this material must also be stamped in letters and figures at least ⅜ inch high into the metal near the center of both outside heads by the tank builder. ICC–105A 100–W must also be stenciled on the jacket in letters and figures at least 2 inches high by the party assembling the completed car.

12. In § 78.286–4 amend paragraph (b); in § 78.286–6 amend paragraph (a), and cancel paragraph (d); in § 78.286–9 amend paragraph (a); in § 78.286–13 amend paragraphs (a) and (b); in § 78.286–17 amend paragraph (a); in § 78.286–18 amend paragraph (a) (1) (21 F. R. 4599, 4600, June 26, 1956) to read as follows:

§ 78.286 *Specification ICC–105A300–W; lagged fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.286–4 *Thickness of plates.* • • •

(b) The minimum thickness of plates must be 11/16 inch, except when steel of 65,000 psi. minimum tensile strength is used, the minimum thickness of plates may be 5/8 inch.

§ 78.286–6 *Material.* (a) All plates for tank and manway nozzle must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification, the carbon content of which shall not exceed 0.31 percent. These plates may also be clad with other materials, such as nickel.

• • • • •

(d) [Canceled.]

§ 78.286–9 *Stress-relieving.* (a) All welding of the tank shell and of attachments welded directly thereto must be stress-relieved as a unit. (See A. A. R. Appendix W).

§ 78.286–13 *Safety valves.* (a) The tank must be equipped with one or more safety valves of an approved design, made of metal not subject to rapid deterioration by lading and mounted on manway cover. The total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 247.5 pounds per square inch.

(b) The safety valve must be set for a start-to-discharge pressure of 225 pounds per square inch. (For tolerance see § 78.286–17 (a).)

§ 78.286–17 *Tests of safety valves.* (a) Each valve must be tested by air or gas before being put into service. The valve must start to discharge at a pressure of 225 pounds per square inch and be vapor tight at 180 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination. The valve must start to discharge at the pressure prescribed in § 78.286–13 (b) with a tolerance of plus or minus 3 percent.

§ 78.286–18 *Marking.* (a) • • •

(1) ICC–105A300–W in letters and figures at least 3/8 inch high stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If tanks are fabricated from ASTM A–212 Grade A or B steel, the specification number of this material must also be stamped in letters and figures at least 3/8 inch high into the metal near the center of both outside heads of the tank by the tank builder. ICC–105A300–W must also be stenciled on the jacket in letters and figures at least 2 inches high by the party assembling the completed car.

13. In § 78.287–4 amend paragraph (b); in § 78.287–6 amend paragraph (a), and cancel paragraph (d); in § 78.287–9 amend paragraph (a); in § 78.287–13 amend paragraphs (a) and (b); in § 78.287–17 amend paragraph (a); in § 78.287–18 amend paragraph (a) (1) (21 F. R. 4601, 4602, June 26, 1956) to read as follows:

§ 78.287 Specification ICC–105A400–W; lagged fusion-welded steel tanks to be mounted on or forming part of a car.

§ 78.287–4 *Thickness of plates.* • • •

(b) The minimum thickness of plates must be 11/16 inch, except when steel of 65,000 psi. minimum tensile strength is used, the minimum thickness of plates may be 5/8 inch.

§ 78.287–6 *Material.* (a) All plates for tank and manway nozzle must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification, the carbon content of which shall not exceed 0.31 percent. These plates may also be clad with other materials, such as nickel.

• • • • •

(d) [Canceled.]

§ 78.287–9 *Stress-relieving.* (a) All welding of the tank shell and of attachments welded directly thereto must be stress-relieved as a unit. (See A. A. R. Appendix W.)

§ 78.287–13 *Safety valves.* (a) The tank must be equipped with one or more safety valves of an approved design, made of metal not subject to rapid deterioration by lading and mounted on manway cover. The total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 330 pounds per square inch.

(b) The safety valves must be set for a start-to-discharge pressure of 300 pounds per square inch. (For tolerance see § 78.287–17 (a).)

§ 78.287–17 *Tests of safety valves.* (a) Each valve must be tested by air or gas before being put into service. The valve must start to discharge at a pressure of 300 pounds per square inch and be vapor tight at 240 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination. The valve must start to discharge at the pressure prescribed in § 78.287–13 (b) with a tolerance of plus or minus 3 percent.

§ 78.287–18 *Marking.* (a) • • •

(1) ICC–105A400–W in letters and figures at least 3/8 inch high stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If tanks are fabricated from ASTM A–212 Grade A or B steel, the specification number of this material must also be stamped in letters and figures at least 3/8 inch high into the metal near the center of both outside heads of the tank by the tank builder. ICC–105A400–W must also be stenciled on the jacket in letters and figures at least 2 inches high by the party assembling the completed car.

14. In § 78.288–4 amend paragraphs (a) and (b); in § 78.288–6 amend paragraph (a), and cancel paragraph (e); in § 78.288–9 amend paragraph (a); in § 78.288–13 amend paragraphs (a), (b), and (c); in § 78.288–17 amend paragraph (a); in § 78.288–18 amend paragraph (a) (1) (21 F. R. 4602, 4603, June 26, 1956) (22 F. R. 2235, April 4, 1957) to read as follows:

§ 78.288 *Specification ICC–105A500–W; lagged fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.288–4 *Thickness of plates.* (a) The wall thickness in the cylindrical portion of the tank and tank heads must be calculated by the following formula, but in no case shall the wall thickness be less than that specified in § 78.288–4 (b):

$$t=\frac{Pd}{2SE}$$

where t=thickness in inches of thinnest plate; P=calculated bursting pressure, pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch; E=efficiency of longitudinal welded joint=90 percent.

(b) The minimum thickness of plates must be 11/16 inch, except when steel of 65,000 psi. minimum tensile strength is used, the minimum thickness of plates may be 5/8 inch.

§ 78.288–6 *Material.* (a) All plates for tank and manway nozzle must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification, the carbon content of which shall not exceed 0.31 percent. These plates may also be clad with other metals, such as nickel.

• • • • •

(e) [Canceled.]

§ 78.288–9 *Stress-relieving.* (a) All welding of the tank shell and of attachments welded directly thereto must be stress-relieved as a unit. (See A. A. R. Appendix W.)

§ 78.288–13 *Safety valves.* (a) The tank must be equipped with one or more safety valves of approved design, made of metal not subject to rapid deterioration by lading and mounted on manway cover. The total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 412.5 pounds per square inch.

(b) The safety valves must be set for a start-to-discharge pressure of 375 pounds per square inch. (For tolerance see § 78.288–17 (a).)

(c) Tanks for use in the transportation of liquefied carbon dioxide must be equipped with one safety valve of approved design set for a start-to-discharge pressure of 375 pounds per square inch, and one frangible disc device of approved design set to function at a pressure less than the test pressure of the tank. The discharge capacity of each of these safety devices must be sufficient to prevent building up pressure in tank in excess of 412.5 pounds per square inch. Tanks must also be equipped with two pressure regulating valves of approved design set for a start-to-discharge pressure of not to exceed 350 pounds per square inch. Each pressure regulating valve and safety device must have its final discharge piped to the outside of the protective housing.

§ 78.288–17 *Tests of safety valves.* (a) Each valve must be tested by air or gas before being put into service. The valve must start to discharge at a pressure of 375 pounds per square inch and be vapor tight at 300 pounds per square inch, which limiting pressures must not be affected by any auxiliary closures or other combination. The valve must start to discharge at the pressure prescribed in §78.288–13 (b) with a tolerance of plus or minus 3 percent.

§ 78.288–18 *Marking.* (a) • • •

(1) ICC–105A500–W in letters and figures at least 3/8 inch high stamped

plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If the tanks are fabricated from ASTM A–212 Grade A or B steel, or ASTM A–300, the specification number of the material must also be stamped in letters and figures at least ⅜ inch high into the metal near the center of both outside heads of the tank by the tank builder. ICC–105A500–W must also be stenciled on the jacket in letters and figures at least 2 inches high by the party assembling the completed car.

15. In § 78.289–4 amend paragraphs (a) and (b); in § 78.289–6 amend paragraph (a), and cancel paragraph (e); in § 78.289–9 amend paragraph (a); in § 78.289–13 amend paragraphs (a), (b) and (c); in § 78.289–17 amend paragraph (a); in § 78.289–18 amend paragraph (a) (1) (21 F. R. 4604, 4605, June 26, 1956) (22 F. R. 2235, Apr. 4, 1957) to read as follows:

§ 78.289 *Specification ICC–105A600–W; lagged fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.289–4 *Thickness of plates.* (a) The wall thickness in the cylindrical portion of the tank and tank heads must be calculated by the following formula, but in no case shall the wall thickness be less than that specified in § 78.289–4 (b):

$$t=\frac{Pd}{2SE}$$

where t=thickness in inches of thinnest plate; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch; E=efficiency of longitudinal welded joint=90 percent.

(b) The minimum thickness of plates must be 11/16 inch, except when steel of 65,000 psi. minimum tensile strength is used, the minimum thickness of plates may be ⅝ inch.

§ 78.289–6 *Material.* (a) All plates for tank and manway nozzle must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification, the carbon content of which shall not exceed 0.31 percent. These plates may also be clad with other metals, such as nickel.

* * * * *

(e) [Canceled.]

§78.289–9 *Stress-relieving.* (a) All welding of the tank shell and of attachments welded directly thereto must be stress-relieved as a unit. (See A. A. R. Appendix W.)

§ 78.289–13 *Safety valves.* (a) The tank must be equipped with one or more safety valves of approved design, made of metal not subject to rapid deterioration by lading and mounted on manway cover. The total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 495 pounds per square inch.

(b) The safety valve must be set for a start-to-discharge pressure of 450 pounds per square inch. (For tolerance see § 78.289–17 (a).)

(c) Tanks for use in the transportation of liquefied carbon dioxide must be equipped with one safety valve of approved design set for a start-to-discharge pressure of 450 pounds per square inch, and one frangible disc device of approved design set to function at a pressure less than the test pressure of the tank. The discharge pressure of each of these safety devices must be sufficient to prevent building up pressure in tank in excess of 495 pounds per square inch. Tank must also be equipped with two pressure regulating valves of approved design set for a start-to-discharge pressure of not to exceed 400 pounds per square inch. Each pressure regulating valve and safety device must have its final discharge piped to the outside of the protective housing.

§ 78.289–17 *Tests of safety valves.* (a) Each valve must be tested by air or gas before being put into service. The valve must start to discharge at a pressure of 450 pounds per square inch and be vapor tight at 360 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination. The valve must start to discharge at the pressure prescribed in § 78.289–13 (b) with a tolerance of plus or minus 3 percent.

§ 78.289–18 *Marking.* (a) * * *

(1) ICC–105A600–W in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If tanks are fabricated from ASTM A–212 Grade A or B, or ASTM A–300 steel, the specification number of this material must also be stamped in letters and figures at least ⅜ inch high into the metal near the center of both outside heads of the tank by the tank builder. ICC–105A600–W must also be stenciled on the jacket in letters and figures at least 2 inches high by the party assembling the completed car.

16. In § 78.291–2 amend paragraph (a); amend entire § 78.291–4; in § 78.291–15 amend paragraphs (b), (c), (d), and cancel paragraph (e) (21 F. R. 4606, 4607, June 26, 1956) to read as follows:

§ 78.291 *Specification ICC–103AL–W; fusion-welded aluminum tanks to be mounted on or forming part of a car.*

§ 78.291–2 *Lagging.* (a) Not a specification requirement. If applied, the tank shell and expansion dome must be lagged with an approved insulation material. The entire insulation must be covered with a metal jacket not less than ⅛ inch in thickness and efficiently flashed around all openings so as to be weather-tight.

§ 78.291–4 *Thickness of plates.* (a) The plate thickness shall not be less than that obtained by calculation using the following formula; and in no case be less than ½ inch:

$$t=\frac{Pd}{2SE}$$

where t=thickness in inches of thinnest plate; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch as follows:

ASTM B–178 Alloy 996A	=	9,500 psi.
ASTM B–178 Alloy 990A	=	11,000 psi.
ASTM B–178 Alloy M1A	=	14,000 psi.
ASTM B–178 Alloy GR20A	=	25,000 psi.
ASTM B–178 Alloy GS11A	=	24,000 psi.
ASTM B–178 Alloy GR40A	=	30,000 psi.

E=efficiency of longitudinal welded joint=90 percent.

(b) The minimum width of bottom sheet of tank must be 60 inches, measured on the arc, but in all cases the width must be sufficient to bring the entire width of the longitudinal welded joint, including welds, above the cradle.

(c) The thickness of a dished tank head must be determined by the following formula, but shall in no case be less than ½ inch:

$$t=\frac{5PL}{6SE}$$

where t=thickness of plate in inches; P=calculated bursting pressure pounds per square inch; L=main inside radius to which head is dished measured on concave side in inches; S=minimum ultimate tensile strength in pounds per square inch (see § 78.291–4 (a)); E=efficiency of welded joint to shell=100 percent.

(d) The thickness of an ellipsoidal head shall be determined by the following formula, but in no case be less than ½ inch:

$$t=\frac{Pd}{2SE}$$

where t=thickness of plate in inches; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch (see § 78.291–4 (a)); E=efficiency of welded joint to shell=100 percent.

§ 78.291–15 *Safety valve.* * * *

(b) Each safety valve must be set for a start-to-discharge pressure of 35 pounds per square inch and be vapor tight at 28 pounds per square inch. (For tolerance see § 78.291–20 (a).)

NOTE 1: Tank cars built prior to June 30, 1957, may be equipped with 25 psi. safety valves.

(c) Tanks used for the transportation of corrosive liquids, flammable solids, oxidizing materials or poisonous liquids or solids, class B, need not be equipped with safety valves, but if not so equipped must have one safety vent made of approved material at least 1¾ inches inside diameter closed with a frangible disc of suitable material, of a thickness that will rupture at a pressure not exceeding 45 pounds per square inch. Means for holding in place must be such as to prevent distortion or damage to disc when applied. Safety vent closure must be chained or otherwise fastened to prevent misplacement. All tanks equipped with vents must be stenciled "Not For Flammable Liquids".

(d) Safety valve or safety vent flanges, if welded to dome, must be of cast, forged or fabricated metal and be of good weldable quality in conjunction with metal of dome.

(e) [Canceled.]

17. In § 78.292–2 amend paragraph (a); amend entire § 78.292–4; in § 78.292–11 amend paragraph (d); in § 78.292–15 amend paragraph (c); in § 78.292–20 amend paragraph (a) (21

F. R. 4608 to 4610, June 26 1956) to read as follows:

§ 78.292 *Specification ICC–103A–AL–W; fusion-welded aluminum tanks to be mounted on or forming part of a car.*

§ 78.292–2 *Lagging.* (a) Not a specification requirement. If applied, the tank shell and expansion dome must be lagged with an approved insulation material. The entire insulation must be covered with a metal jacket not less than ⅛ inch in thickness and efficiently flashed around all openings so as to be weather-tight.

§ 78.292–4 *Thickness of plates.* (a) The plate thickness shall not be less than that obtained by calculation using the following formula; and in no case be less than ½ inch:

$$t=\frac{Pd}{2SE}$$

where t=thickness in inches of thinnest plate; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch as follows:

ASTM B–178 Alloy 996A	= 9,500 psi.
ASTM B–178 Alloy 990A	=11,000 psi.
ASTM B–178 Alloy M1A	=14,000 psi.
ASTM B–178 Alloy GR20A	=25,000 psi.
ASTM B–178 Alloy GS11A	=24,000 psi.
ASTM B–178 Alloy GR40A	=30,000 psi.

E=efficiency of longitudinal welded joint=90 percent.

(b) The minimum width of bottom sheet of tank must be 60 inches, measured on the arc, but in all cases the width must be sufficient to bring the entire width of the longitudinal welded joint, including welds, above the cradle.

(c) The thickness of a dished tank head must be determined by the following formula, but shall in no case be less than ½ inch:

$$t=\frac{5PL}{6SE}$$

where t=thickness of plate in inches; P=calculated bursting pressure pounds per square inch; L=main inside radius to which head is dished measured on concave side in inches; S=minimum ultimate tensile strength in pounds per square inch (see § 78.292–4 (a)); E=efficiency of welded joint to shell=100 percent.

(d) The thickness of an ellipsoidal head shall b determined by the following formula, but in no case be less than ½ inch:

$$t=\frac{Pd}{2SE}$$

where t=thickness of plate in inches; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch (see § 78.292–4 (a)); E=efficiency of welded joint to shell=100 percent.

§ 78.292–11 *Expansion dome.* • • •

(d) The dome shell thickness shall be calculated by the formula in § 78.292–4 (a).

§ 78.292–15 *Safety devices.* • • •

(c) The safety valve, if used, must be set for a start-to-discharge pressure of 35 pounds per square inch and be vapor tight at 28 pounds per square inch. (For tolerance see § 78.292–20 (a).)

NOTE 1: Tank cars built prior to June 30, 1957 may be equipped with 25 psi. safety valves.

§ 78.292–20 *Tests of safety valves.* (a) Each safety valve must be tested before being put into service by attaching to an air line and applying pressure. The valve must start to discharge at the pressure prescribed in § 78.292–15 (c) with a tolerance of plus or minus 3 pounds.

18. In § 78.294–3 amend paragraph (a); in § 78.294–4 add paragraph (d); in § 78.294–11 amend paragraph (b); in § 78.294–13 amend paragraphs (a) and (b); in § 78.294–17 amend paragraph (a) (21 F. R. 4613, 4614, June 26, 1956) to read as follows:

§ 78.294 *Specification ICC–105A100–AL–W; lagged fushion-welded aluminum tanks to be mounted on or forming part of a car.*

§ 78.294–3 *Bursting pressure.* (a) The calculated bursting pressure, based on the lowest tensile strength of the plate and the efficiency of the longitudinal welded joint, must be at least 500 pounds per square inch.

§ 78.294–4 *Thickness of plates.* • • •

(d) The minimum thickness of plates and heads shall not be less than ⅝ inch.

§ 78.294–11 *Manway nozzle, cover and protective housing.* • • •

(b) Manway cover must be of forged or rolled aluminum alloy at least 2½ inches thick, or other approved material such as cast or rolled alloy steel at least 2¼ inches thick, machined to approved dimensions. Manway cover must be attached to nozzle by through bolts not entering tank.

§ 78.294–13 *Safety valves.* (a) The tank must be equipped with one or more safety valves of approved design made of metal not subject to rapid deterioration by lading and mounted on manway cover. The total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 85 pounds per square inch.

(b) The safety valves must be set for a start-to-discharge pressure of 75 pounds per square inch. (For tolerance see § 78.294–17 (a).)

§ 78.294–17 *Tests of safety valves.* (a) Each valve must be tested by air or gas before being put into service. The valve must start to discharge at a pressure of 75 pounds per square inch and be vapor tight at 60 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination. The valve must start to discharge at the pressure prescribed in § 78.294–13 (b) with a tolerance of plus or minus 3 pounds.

19. In § 78.296–2 amend paragraph (a); in § 78.296–5 amend paragraph (a); in § 78.296–9 amend paragraph (a); in § 78.296–15 amend paragraphs (a) and (b); in § 78.296–20 amend paragraph (a); in § 78.296–21 amend paragraph (a)(1) (21 F. R. 4617, 4618, June 26, 1956) to read as follows:

§ 78.296 *Specification ICC–103B100–W; rubber lined fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.296–2 *Lagging.* (a) Not a specification requirement. If applied, the tank shell and expansion dome must be lagged with an approved insulation material. The entire insulation must be covered with a metal jacket not less than ⅛ inch in thickness and efficiency flashed around all openings so as to be weather-tight.

§ 78.296–5 *Material.* (a) All plates for tank and expansion dome must be made of open-hearth boiler-plate steel of flange or firebox quality steel to an approved specification, the carbon content of which shall not exceed 0.31 percent.

§ 78.296–9 *Stress-relieving.* (a) All welding of the tank shell and of attachments welded directly thereto must be stress-relieved as a unit. (See A. A. R. Appendix W.)

§ 78.296–15 *Safety valves.* (a) The tank must be equipped with one or more safety valves of approved design, made of material not subject to rapid deterioration by lading and mounted on manway cover. The total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 85 pounds per square inch.

(b) The safety valves must be set for a start-to-discharge pressure of 75 pounds per square inch. (For tolerance see § 78.296–20(a).)

§ 78.296–20 *Tests of safety valves.* (a) Each valve must be tested by air or gas before being put into service. The valve must start to discharge at a pressure of 75 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination. The valve must start to discharge at the pressure prescribed in § 78.296–15 (b) with a tolerance of plus or minus 3 pounds.

§ 78.296–21 *Marking.* (a) • • •

(1) ICC–103B100–W in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If tanks are fabricated from ASTM A–212 Grade A or B steel, the specification number of this material must also be stamped in letters and figures at least ⅜ inch high into the metal near the center of both outside heads of the tank by the tank builder. ICC–103B100–W must also be stenciled on the tank, or jacket if lagged, in letters and figures at least 2 inches high by the party assembling the completed car.

20. In § 78.297–2 amend paragraph (a); in § 78.297–9 amend paragraph (a); in § 78.297–15 amend paragraphs (a), (b), (c), (d), and cancel paragraph (e) (21 F. R. 4619, 4620, June 26, 1956) to read as follows:

§ 78.297 *Specification ICC–103D–W; fusion-welded alloy steel tanks to be mounted on or forming part of a car.*

§ 78.297–2 *Lagging.* (a) Not a specification requirement. If applied, the tank shell and expansion dome must be

lagged with an approved insulation material. The entire insulation must be covered with a metal jacket not less than ⅛ inch in thickness and efficiently flashed around all openings so as to be weather-tight.

§ 78.297–9 *Heat treatment.* (a) All welding of the tank shell and of attachments welded directly thereto must be heat treated as a unit to remove stresses and at the proper temperature to obtain the corrosion resistance specified in § 78.297–5 (a). (See A. A. R. Appendix W.)

§ 78.297–15 *Safety valves.* (a) The tank must be equipped with one or more safety valves of approved design mounted on top of expansion dome. The total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 45 pounds per square inch.

(b) The safety valve must be set for start-to-discharge pressure of 35 pounds per square inch and be vapor tight at 28 pounds per square inch. (For tolerance see § 78.297–20 (a).)

(c) Tanks used for the transportation of corrosive liquids, flammable solids, oxidizing materials, or poisonous liquids or solids, class B, need not be equipped with safety valves, but if not so equipped must have 1 safety vent at least 1¾ inches inside diameter closed with a frangible disc of lead or other suitable material of a thickness that will rupture at not more than 45 pounds per square inch. Means for holding disc in place must be such as to prevent distortion or damage to disc when applied. Safety vent closure must be chained or otherwise fastened to prevent misplacement. All tanks equipped with vents must be stenciled "Not For Flammable Liquids".

(d) Safety valve or safety vent flanges must be of cast, forged, or fabricated metal not subject to rapid deterioration by the lading, and be of good weldable quality in conjunction with metal of dome.

(e) [Canceled.]

21. In § 78.298–2 amend paragraph (a); in § 78.298–9 amend paragraph (a); in § 78.298–11 amend paragraph (a); in § 78.298–15 amend paragraphs (a), (b), (c), (d) and cancel paragraph (e) (21 F. R. 4621, 4622, June 26, 1956) to read as follows:

§ 78.298 *Specification ICC–103E–W; fusion-welded alloy steel tanks to be mounted on or forming part of a car.*

§ 78.298–2 *Lagging.* (a) Not a specification requirement. If applied, the tank shell and expansion dome must be lagged with an approved insulation material. The entire insulation must be covered with a metal jacket not less than ⅛ inch in thickness and efficiently flashed around all openings so as to be weather-tight.

§ 78.298–9 *Heat treatment.* (a) All welding of the tank shell and of attachments welded directly thereto must be heat treated as a unit to remove stresses and at the proper temperature to obtain the corrosion resistance specified in § 78.298–5 (a). (See A. A. R. Appendix W.)

§ 78.298–11 *Expansion dome.* (a) The expansion dome must have a capacity measured from the inside top of shell of tank to the inside top of dome or bottom of any vent pipe projecting inside dome, of at least 1 percent of the total capacity of the tank and dome combined.

§ 78.298–15 *Safety valves.* (a) The tank must be equipped with one or more safety valves of approved design mounted on top of expansion dome. The total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 45 pounds per square inch.

(b) The safety valve must be set for a start-to-discharge pressure of 35 pounds per square inch and be vapor tight at 28 pounds per square inch. (For tolerance see § 78.298–20 (a).)

(c) Tanks used for the transportation of corrosive liquids, flammable solids, oxidizing materials, or poisonous liquids or solids, class B, need not be equipped with safety valves, but if not so equipped must have 1 safety vent at least 1¾ inches inside diameter closed with a frangible disc of lead or other suitable material of a thickness that will rupture at not more than 45 pounds per square inch. Means for holding disc in place must be such as to prevent distortion or damage to disc when applied. Safety vent closure must be chained or otherwise fastened to prevent misplacement. All tanks equipped with vents must be stenciled "Not For Flammable Liquids".

(d) Safety valve or safety vent flanges must be of cast, forged, or fabricated metal not subject to rapid deterioration by the lading, and be of good weldable quality in conjunction with metal of dome.

(e) [Canceled.]

22. In § 78.299–2 amend paragraph (a) (21 F. R. 4623, June 26, 1956) to read as follows:

§ 78.299 *Specification ICC–103A–N–W; fusion-welded nickel or nickel alloy tanks to be mounted on or forming part of a car.*

§ 78.299–2 *Lagging.* (a) Not a specification requirement. If applied, the tank shell and expansion dome must be lagged with an approved insulation material. The entire insulation must be covered with a metal jacket not less than ⅛ inch in thickness and efficiently flashed around all openings so as to be weather-tight.

23. In § 78.300–4 amend paragraph (a) and (c); in § 78.300–13 amend paragraphs (a) and (b); in § 78.300–17 amend paragraph (a) (21 F. R. 4625, 4626, June 26, 1956) to read as follows:

§ 78.300 *Specification ICC–105A300–AL–W; lagged fusion-welded aluminum tanks to be mounted on or forming part of a car.*

§ 78.300–4 *Thickness of plates.* (a) The wall thickness in the cylindrical portion of the tank shall be calculated by the following formula:

$$t=\frac{Pd}{2SE}$$

where t=thickness in inches of thinnest plate; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch as follows:

ASTM B–178 Alloy GR20A=25,000 psi.
ASTM B–178 Alloy GS11A=24,000 psi.
ASTM B–178 Alloy GR40A=30,000 psi.

E=efficiency of longitudinal welded joint=90 percent.

* * * * *

(c) The minimum thickness of plates and heads must not be less than ⅝ inch.

§ 78.300–13 *Safety valves.* (a) The tank must be equipped with one or more safety valves of approved design, made of metal not subject to rapid deterioration by lading and mounted on manway cover. The total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 247.5 pounds per square inch.

(b) The safety valves must be set for a start-to-discharge pressure of 225 pounds per square inch. (For tolerance see § 78.300–17 (a).)

§ 78.300–17 *Tests of safety valves.* (a) Each value must be tested by air or gas before being put into service. The valve must start to discharge at a pressure of 225 pounds per square inch and be vapor tight at 180 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination. The valve must start to discharge at the pressure prescribed in § 78.300–13 (b) with a tolerance of plus or minus 3 percent.

24. In § 78.301–2 amend paragraph (a); in § 78.301–6 amend paragraph (a), and cancel paragraph (d); in § 78.301–9 amend paragraph (a); in § 78.301–14 amend paragraph (a) and add paragraph (b); in § 78.301–18 amend paragraph (a); in § 78.301–19 amend paragraph (a) (1) (21 F. R. 4626, 4627, 4628, June 26, 1956) to read as follows:

§ 78.301 *Specification ICC–109A300–W; fusion-welded steel tanks to be mounted on or forming part of a car.*

§ 78.301–2 *Lagging.* (a) Not a specification requirement. If applied, the tank shell and manway nozzle must be lagged with an approved insulation material. The entire insulation must be covered with a metal jacket not less than ⅛ inch in thickness and efficiently flashed around all openings so as to be weather-tight.

§ 78.301–6 *Material.* (a) All plates for tank and manway nozzle must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification, the carbon content of which shall not exceed 0.31 percent. These plates may also be clad with other metals, such as nickel.

* * * * *

(d) [Canceled.]

§ 78.301–9 *Stress-relieving.* (a) All welding of the tank shell and of attachments welded directly thereto must be stress-relieved as a unit. (See A. A. R. Appendix W.)

§ 78.301–14 *Safety valves.* (a) The tank must be equipped with one or more safety valves of approved design made of metal not subject to rapid deteriora-

tion by lading and mounted on manway cover. The total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 247.5 pounds per square inch.

(b) The safety valve must be set for a start-to-discharge pressure of 225 pounds per square inch. (For tolerance see § 78.301–18 (a).)

§ 78.301–18 *Tests of safety valves.* (a) Each valve must be tested by air or gas before being put into service. The valve must start to discharge at a pressure of 225 pounds per square inch and be vapor tight at 180 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination. The valve must start to discharge at the pressure prescribed in § 78.301–14 (b) with a tolerance of plus or minus 3 percent.

§ 78.301–19 *Marking.* (a) • • •

(1) ICC–109A300–W in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If tanks are fabricated from ASTM A–212 Grade A or B steel, the specification number of the material must also be stamped in letters and figures at least ⅜ inch high into the metal near the center of both outside heads of the tank by the tank builder. ICC–109A300–W must also be stenciled on the tank, or jacket if lagged, in letters and figures at least 2 inches high by the party assembling the completed car.

25. In § 78.302–3 amend paragraph (a); in § 78.302–14 amend paragraphs (a) and (b); in § 78.302–18 amend paragraph (a) (22 F. R. 2236, 2237, Apr. 4, 1957) to read as follows:

§ 78.302 *Specification ICC–109A100–AL–W; fusion-welded aluminum tanks to be mounted on or forming part of a car.*

§ 78.302–3 *Bursting pressure.* (a) The calculated bursting pressure, based on the lowest tensile strength of the plate and the efficiency of the longitudinal welded joint, must be at least 500 pounds per square inch.

§ 78.302–14 *Safety valves.* (a) The tank must be equipped with one or more safety valves of approved design, made of metal not subject to rapid deterioration by lading and mounted on manway cover. The total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 85 pounds per square inch.

(b) The safety valve must be set for a start-to-discharge pressure of 75 pounds per square inch. (For tolerance see § 78.302–18 (a).)

§ 78.302–18 *Tests of safety valves.* (a) Each valve must be tested by air or gas before being put into service. The valve must start to discharge at a pressure of 75 pounds per square inch and be vapor tight at 60 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination. The valve must start to discharge at the pressure prescribed in § 78.302–14 (b) with a tolerance of plus or minus 3 pounds.

26. Add § 78.303 (21 F. R. 4628, June 26, 1956) to read as follows:

§ 78.303 *Specification ICC–111A100–W–1; fusion-welded steel tanks to be mounted on or forming part of a car.* (a) Wherever the word "approved" is used in this specification, it means approval by the Association of American Railroads Committee on Tank Cars as prescribed in § 78.259 (a), (b), (c) and (d).

§ 78.303–1 *Type.* (a) Tanks built under this specification must be cylindrical with heads designed convex outward. When the interior of the tank is divided into compartments, each compartment must have two heads designed convex outward. The tank shell, or each compartment, must be provided with manway and such other external projections as are prescribed herein.

§ 78.303–2 *Bursting pressure.* (a) The calculated bursting pressure, based on the lowest tensile strength of the plate and the efficiency of the longitudinal welded joint, must be not less than 500 pounds per square inch.

§ 78.303–3 *Thickness of plates.* (a) (1) The wall thickness in the cylindrical portion of the tank must be calculated by the following formula, but in no case shall the wall thickness be less than 7/16 inch:

$$t=\frac{Pd}{2SE}$$

where t=thickness in inches of the thinnest plate; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch; E=efficiency of longitudinal welded joint=90 percent.

(2) For tanks without an underframe, the cylindrical portion of the tank must have a thickness that will result in stress not exceeding 16,000 pounds per square inch as a result of 800,000 pounds impact and the end load ratio must not exceed 0.05.

(b) The thickness of an ellipsoidal head in which the ellipsoid of revolution has the major axis equal to the inside diameter of the shell and the minor axis is one-half the major axis, shall be determined by the following formula:

$$t=\frac{Pd}{2SE}$$

where t=thickness of plate in inches; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch; E=efficiency of welded joint, if any,=90 percent; if head is made in one piece, E=100 percent.

(c) The minimum thickness of clad plates, where cladding material has physical properties at least equal to that of the base plate, may be considered as part of the base plate for determining total thickness of plate required. Where the cladding material does not have physical properties at least equal to that of the base plate, the cladded thickness must be added to that required for the base plate.

§ 78.303–4 *Openings in the tank.* (a) Openings for manway nozzle or other fittings must be reinforced in an approved manner.

§ 78.303–5 *Material.* (a) All plates for tank must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification, the carbon content of which shall not exceed 0.31 percent. These plates may also be clad with other metals, such as nickel.

(b) All castings used for fittings or attachments to tank must be made of material to an approved specification. Use of cast iron is prohibited.

(c) All external projections must be made of materials specified herein.

§ 78.303–6 *Tank Heads.* (a) The tank head shape shall be an ellipsoid of revolution in which the major axis shall equal the diameter of the shell and the minor axis shall be one-half the major axis.

§ 78.303–7 *Welding.* (a) All joints must be fusion-welded by a process which investigation and laboratory tests by the Mechanical Division of the Association of American Railroads have proved will produce satisfactory results. Fusion-welding to be performed by fabricators certified by the Association of American Railroads as qualified to meet the requirements of this specification. All joints must be fabricated by means of fusion-welding in accordance with the requirements of A. A. R. Welding Code, Appendix W.

§ 78.303–8 *Stress-relieving.* (a) All welding of the tank shell and of attachments welded directly thereto must be stress-relieved as a unit. (See A. A. R. Appendix W).

§ 78.303–9 *Tank mounting.* (a) The manner in which the tank is supported on and securely attached to the car structure must be approved.

(b) The use of rivets as a means of securing anchor to the tank is prohibited.

§ 78.303–10 *Tests of tanks.* (a) Each tank must be tested by completely filling tank and nozzles with water, or other liquid of similar viscosity, having a temperature which must not exceed 100 degrees Fahrenheit during the test, and applying a pressure of 100 pounds per square inch. The tank must hold the prescribed pressure for at least 10 minutes without leakage or evidence of distress.

(b) If tanks are lagged, the test of tank must be made before lagging is applied.

(c) Calking of welded joints to stop leaks developed during the foregoing tests is prohibited. Repairs in welded joints must be made as prescribed in § 78.303–7 (a).

§ 78.303–11 *Marking.* (a) Each tank must be marked, thus certifying that the tank complies with all the requirements of this specification, as follows:

(1) ICC–111A100–W in letters and figures at least ⅜ inch high, stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If the tanks are fabricated from ASTM A–212 Grade A or B steel, the specification number of this material must also be

stamped in letters and figures at least ⅜ inch high into the metal near the center of both outside heads of the tank by the tank builder. ICC–111A100–W–1 must also be stenciled on the tank, or jacket if lagged, in letters and figures at least 2 inches high by the party assembling the completed car, using the classification group number for the stenciled marking.

(2) Initials of tank builder and date of original test of tank, in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (1) of this paragraph.

(3) Initials of company and date of adidtional tests performed by the party assembling the completed car, in those cases where the tank builder does not complete the fabrication of tank, in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (2) of this paragraph by the party asembling the completed car. These marks must also be stenciled on the tank, or jacket if lagged, in letters and figures at least 2 inches high, immediately below the stenciled mark specified in subparagraph (1) of this paragraph by the party assembling the completed car.

(4) Date on which the tank was last tested, pressure to which tested, place where test was made, and by whom, stenciled on the tank, or jacket if lagged.

(5) Date on which the safety valves were last tested, pressure to which tested, place where test was made, and by whom, stenciled on the tank, or jacket if lagged.

(6) Date on which interior heater system was last tested, pressure to which tested, place where test was made, and by whom, stenciled on the tank, or jacket if lagged.

(7) When a tank car and its appurtenances are designed and authorized for the transportation of a particular commodity, the name of that commodity followed by the word "only", or such other wording as may be required to indicate the limits of usage of the car, must be stenciled on each side of the tank, or jacket if lagged, in letters at least 1 inch high, immediately above the stenciled mark specified in subparagraph (1) of this paragraph.

(8) Tanks made of clad plates must be stenciled on the tank, or jacket if lagged (naming material) _____ clad tank. Lined tanks must be stenciled on the tank, or jacket if lagged (naming material) _____ lined tank. These marks must be in letters at least 2 inches high, immediately above the stenciled mark specified in subparagraph (1) of this paragraph.

§ 78.303–12 *Reports.* (a) Before a tank car is placed in service, the party assembling the completed car must furnish to car owner, Bureau of Explosives, and the Secretary, Mechanical Division, Association of American Railroads, a report in approved form certifying that the tank and its equipment comply with all the requirements of this specification. In case of welded repairs to, alterations of, or additions to tanks or equipment from original design and construction, all of which must be approved, there must be furnished to the same parties a report in detail of the welded repairs, alterations or additions made to each tank covered by a particular application showing initial and number of each tank involved. Reports of retests must be rendered to the Bureau of Explosives and car owner.

§ 78.303–13 *Outage.* (a) Tanks with Group 1 fittings and appurtenances will require a minimum outage of 2 percent. This outage must be provided for in the tank shell.

§ 78.303–14 *Lagging.* (a) Not a specification requirement. If applied, the tank shell must be lagged with an approved insulation material. The entire insulation must be covered with a metal jacket not less than ⅛ inch in thickness and efficiently flashed around all openings so as to be weather-tight.

(b) Before lagging is applied, the exterior tank surface and the interior surface of the metal jacket shall be given a protective coating.

§ 78.303–15 *Closure for manway.* (a) The manway cover must be of an approved type and design to make it impossible to remove the cover while the interior of the tank is subjected to pressure.

(b) Manway cover must be made of cast, forged or fabricated steel and be of good weldable quality in conjunction with metal of tank.

(c) All covers not hinged must be attached to outside of tank by at least a ⅜ inch chain or its equivalent.

(d) All joints between manway covers and their seats must be made tight against leakage of vapor or liquid by use of gaskets of suitable material.

§ 78.303–16 *Bottom outlets.* (a) The bottom outlet, when installed, must be made of metal not subject to rapid deterioration by the lading, be of approved design and be provided with a liquid tight closure at the outlet end.

(b) The valve operating mechanism and outlet nozzle construction must be such as to insure against unseating the valve due to stresses or shocks incidental to transportation.

(c) Bottom outlet nozzle may be of cast, fabricated or forged metal. If outlet nozzle is welded to tank, it must be of cast, forged or fabricated metal and be of good weldable quality in conjunction with the metal of the tank.

(d) To provide for the attachment of standard unloading connections, the bottom of the main portion of the outlet nozzle, or some fixed attachment thereto, must have external Unified Form Threads, 4 threads per inch.

(e) For outlet nozzles that extend 6 inches or more from the shell of tank, a "V" groove must be cut (not cast) in the upper part of the outlet nozzle at a point immediately below lowest part of valve to a depth that will leave thickness of nozzle wall at root of the "V" not over ⅜ inch. In the case of steam jacketed outlet nozzles, this groove must be below the steam chamber, but not more than 15 inches from the tank. Where the outlet nozzle is not a single piece, arrangement must be made to provide the equivalent of the breakage groove.

(f) The flange on the outlet nozzle must be of a thickness which will prevent distortion of the valve seat or valve by any change in contour of the shell resulting from expansion of the lading, or other causes, and which will insure that accidental breakage of the outlet nozzle will occur at or below the "V" groove.

(g) The valve must have no wings or stem projecting below the "V" groove in the outlet nozzle. The valve and seat must be readily accessible or removable for repairs, including grinding.

(h) The valve operating mechanism must have means for compensating for variation in the vertical diameter of the tank produced by expansion, weight of the liquid contents, or other causes, and should operate from the exterior of the tank. Leakage must be prevented by packing in stuffing box or other suitable seals and a cap.

(i) In no case must extreme projection of bottom outlet equipment extend to within 12 inches above top of rail. All bottom outlet reducers and closures and their attachments must be secured to car by at least a ⅜ inch chain or its equivalent, except that outlet closure plugs may be attached by ¼ inch chain. When the bottom outlet closure is of the combination cap and valve type, the pipe connection of the valve must be closed by a plug or cap.

§ 78.303–17 *Venting, loading and unloading devices.* (a) Installation of these devices is optional, and when installed, these devices and fittings must be of an approved design, and made of materials not subject to rapid deterioration by the lading.

(b) The venting device shall be an opening to permit application of pressure to tank. The loading and unloading device shall be a pipe extending down to the bottom of the tank so that, by application of pressure, the contents of the tank can be completely removed. The pipe shall be securely anchored at its lower end to prevent damage from surge of liquid.

(c) These devices must be equipped with valves to provide for the loading and unloading of the contents. These devices, including valves, must be of an approved design and be provided with a protective housing or equivalent. Provision must be made for closing pipe connections of valves.

§ 78.303–18 *Gauging devices.* (a) Outage for these tanks must be provided within the tank shell; therefore, an outage scale visible from manway when cover is open must be provided.

(b) A telltale pipe must be applied with a ¼ inch control valve mounted outside of the tank and enclosed within a cap. The telltale pipe shall measure a liquid level that will indicate an outage not less than that specified for tanks equipped with Group 1 fittings. This requirement is to permit tank to be loaded with the manway cover closed.

§ 78.303–19 *Vacuum breaker.* (a) To prevent pressure reduction of more than 1½ pounds per square inch below

atmospheric pressure, when unloading a tank with a closed manway cover, or from drop in temperature with subsequent shrinkage of lading, each tank shall be equipped with a valve of approved design.

§ 78.303–20 *Safety valves.* (a) The tank, or each compartment thereof, must be equipped with one or more safety valves of approved design, mounted on suitable nozzles securely attached to the top of the tank. Total valve discharge capacity must be sufficient to prevent building up of pressure in tank in excess of 85 pounds per square inch.

(b) Each safety valve must be set for a start-to-discharge pressure of 75 pounds per square inch and be vapor tight at 60 pounds per square inch. (For tolerance see § 78.303–21 (a).)

(c) Tanks used for the transportation of corrosive liquids, flammable solids, oxidizing materials, or poisonous liquids or solids, class B, need not be equipped with safety valves, but if not so equipped, must have a safety vent at least 1¾ inches inside diameter, closed with a frangible disc of lead, or other suitable material, of a thickness that will rupture at a pressure of not more than 75 pounds per square inch. Means for holding disc in place must be such as to prevent distortion or damage to disc when applied. Safety vent closure must be chained or otherwise fastened to prevent misplacement. All tanks equipped with vents must be stenciled "Not For Flammable Liquids".

§ 78.303–21 *Tests of safety valves.* (a) Each valve must be tested by air or gas before being put into service. The valve must start to discharge at a pressure of 75 pounds per square inch and be vapor tight at 60 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination. The valves must start to discharge at the pressure prescribed in § 78.303–20 (b) with a tolerance of plus or minus 3 pounds.

§ 78.303–22 *Interior heater systems.* (a) Not a specification requirement. When installed, see §§ 78.260 and 78.261, heater systems.

(b) Flanges for interior heater systems and plugs must be of cast, fabricated or forged metal. Flanges must be of good weldable quality in conjunction with the metal of the tank.

(c) Interior heater systems, when installed, must be so constructed that the breaking off of their external connections will not cause leakage of contents of tanks.

(d) Interior heater systems must be tested with hydrostatic pressure and must be tight at 200 pounds per square inch.

27. Add § 78.304 (21 F. R. 4628, June 26, 1956) to read as follows:

§ 78.304 *Specification ICC–111A100–W–2; fusion-welded steel tanks to be mounted on or forming part of a car.* (a) Wherever the word "approved" is used in this specification, it means approval by the Association of American Railroads Committee on Tank Cars as prescribed in § 78.259 (a), (b), (c) and (d).

§ 78.304–1 *Type.* (a) Tanks built under this specification must be cylindrical with heads designed convex outward. When the interior of the tank is divided into compartments, each compartment must have two heads designed convex outward. The tank shell, or each compartment, must be provided with manway and such other external projections as are prescribed herein.

§ 78.304–2 *Bursting pressure.* (a) The calculated bursting pressure, based on the lowest tensile strength of the plate and the efficiency of the longitudinal welded joint, must be not less than 500 pounds per square inch.

§ 78.304–3 *Thickness of plates.* (a) (1) The wall thickness in the cylindrical portion of the tank must be calculated by the following formula, but in no case shall the wall thickness be less than 7/16 inch:

$$t=\frac{Pd}{2SE}$$

where t=thickness in inches of the thinnest plate; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch; E=efficiency of longitudinal welded joint=90 percent.

(2) For tanks without an underframe, the cylindrical portion of the tank must have a thickness that will result in stress not exceeding 16,000 pounds per square inch as a result of 800,000 pounds impact and the end load ratio must not exceed 0.05.

(b) The thickness of an ellipsoidal head in which the ellipsoid of revolution has the major axis equal to the inside diameter of the shell and the minor axis is one-half the major axis, shall be determined by the following formula:

$$t=\frac{Pd}{2SE}$$

where t=thickness of plate in inches; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch; E=efficiency of welded joint, if any,=90 percent; if head is made in one piece, E=100 percent.

(c) The minimum thickness of clad plates, where cladding material has physical properties at least equal to that of the base plate, may be considered as part of the base plate for determining total thickness of plate required. Where the cladding material does not have physical properties at least equal to that of the base plate, the cladded thickness must be added to that required for the base plate.

§ 78.304–4 *Openings in the tank.* (a) Openings for manway nozzle or other fittings must be reinforced in an approved manner.

§ 78.304–5 *Material.* (a) All plates for tank must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification, the carbon content of which shall not exceed 0.31 percent. These plates may also be clad with other metals, such as nickel.

(b) All castings used for fittings or attachments to tank must be made of material to an approved specification. Use of cast iron is prohibited.

(c) All external projections must be made of materials specified herein.

§ 78.304–6 *Tank heads.* (a) The tank head shape shall be an ellipsoid of revolution in which the major axis shall equal the diameter of the shell and the minor axis shall be one-half the major axis.

§ 78.304–7 *Welding.* (a) All joints must be fusion-welded by a process which investigation and laboratory tests by the Mechanical Division of the Association of American Railroads have proved will produce satisfactory results. Fusion-welding to be performed by fabricators certified by the Association of American Railroads as qualified to meet the requirements of this specification. All joints must be fabricated by means of fusion-welding in accordance with the requirements of A. A. R. Welding Code, Appendix W.

§ 78.304–8 *Stress-relieving.* (a) All welding of the tank shell and of attachments welded directly thereto must be stress-relieved as a unit. (See A. A. R. Appendix W.)

§ 78.304–9 *Tank mounting.* (a) The manner in which the tank is supported on and securely attached to the car structure must be approved.

(b) The use of rivets as a means of securing anchor to the tank is prohibited.

§ 78.304–10 *Tests of tanks.* (a) Each tank must be tested by completely filling tank and nozzles with water, or other liquid of similar viscosity, having a temperature which must not exceed 100 degrees Fahrenheit during the test, and applying a pressure of 100 pounds per square inch. The tank must hold the prescribed pressure for at least 10 minutes without leakage or evidence of distress.

(b) If tanks are lagged, the test of tank must be made before lagging is applied.

(c) Calking of welded joints to stop leaks developed during the foregoing tests is prohibited. Repairs in welded joints must be made as prescribed in § 78.304–7 (a).

§ 78.304–11 *Marking.* (a) Each tank must be marked, thus certifying that the tank complies with all the requirements of this specification, as follows:

(1) ICC–111A100–W in letters and figures at least ⅜ inch high, stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If the tanks are fabricated from ASTM A–212 Grade A or B steel, the specification number of this material must also be stamped in letters and figures at least ⅜ inch high into the metal near the center of both outside heads of the tank by the tank builder. ICC–111A100–W–2 must also be stenciled on the tank, or jacket if lagged, in letters and figures at least 2 inches high by the party assembling the completed car, using the classification group number for the stenciled marking.

(2) Initials of the tank builder and date of original test of tank, in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (1) of this paragraph.

(3) Initials of company and date of additional tests performed by the party assembling the completed car, in those cases where the tank builder does not complete the fabrication of tank, in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (2) of this paragraph by the party assembling the completed car. These marks must also be stenciled on the tank, or jacket if lagged, in letters and figures at least 2 inches high, immediately below the stenciled mark specified in subparagraph (1) of this paragraph by the party assembling the completed car.

(4) Date on which the tank was last tested, pressure to which tested, place where test was made, and by whom, stenciled on the tank, or jacket if lagged.

(5) Date on which the safety valves were last tested, pressure to which tested, place where test was made, and by whom, stenciled on the tank, or jacket if lagged.

(6) Date on which the interior heater systems were last tested, pressure to which tested, place where test was made, and by whom, stenciled on the tank, or jacket if lagged.

(7) When a tank car and its appurtenances are designed and authorized for the transportation of a particular commodity, the name of that commodity followed by the word "only", or such other wording as may be required to indicate the limits of usage of the car, must be stenciled on each side of the tank, or jacket if lagged, in letters at least 1 inch high, immediately above the stenciled mark specified in subparagraph (1) of this paragraph.

(8) Tanks made of clad plates must be stenciled on the tank, or jacket if lagged, (naming material) _____ clad tanks. Lined tanks must be stenciled on the tanks, or jacket if lagged, (naming material) _____ lined tank. These marks must be in letters at least 2 inches high, immediately above the stenciled mark specified in subparagraph (1) of this paragraph.

§ 78.304–12 *Reports.* (a) Before a tank car is placed in service, the party assembling the completed car must furnish to car owner, Bureau of Explosives, and the Secretary, Mechanical Division, Association of American Railroads, a report in approved form certifying that the tank and its equipment comply with all the requirements of this specification. In case of welded repairs to, alterations of, or additions to tanks or equipment from original design and construction, all of which must be approved, there must be furnished to the same parties a report in detail of the welded repairs, alterations or additions made to each tank covered by a particular application showing initials and number of each tank involved. Reports of retests must be rendered to the Bureau of Explosives and car owner.

§ 78.304–13 *Outage.* (a) Tanks with Group 2 fittings and appurtenances will require a minimum outage of 1 percent. This outage must be provided in the tank shell.

§ 78.304–14 *Lagging.* (a) Not a specification requirement. If applied, the tank shell must be lagged with an approved insulation material. The entire insulation must be covered with a metal jacket not less than ⅛ inch in thickness and efficiently flashed around all openings so as to be weather-tight.

(b) Before lagging is applied, the exterior tank surface and the interior surface of the metal jacket shall be given a protective coating.

§ 78.304–15 *Closures for manway.* (a) The manway cover must be of an approved type and designed to make it impossible to remove the cover while the interior of the tank is subjected to pressure.

(b) Manway covers must be of cast, forged or fabricated steel. Manway ring must be made of cast, forged or fabricated steel and be of good weldable quality in conjunction with the metal of the tank.

(c) All covers not hinged must be attached to outside of tank by at least ⅜ inch chain or its equivalent.

(d) All joints between manway covers and their seats must be made tight against leakage of vapor or liquid by use of gaskets of suitable material.

§ 78.304–16 *Bottom outlets.* (a) Bottom outlet is prohibited, but tank may be equipped with a bottom washout nozzle of approved design, made of metal not subject to rapid deterioration by the lading.

(b) The construction and closure of the bottom washout nozzle must be such that it is liquid tight and should the nozzle be broken, loss of contents will not occur.

(c) The extreme projection of the bottom washout nozzle must be at least 12 inches above the top of rail.

(d) Bottom washout nozzle may be of cast, frabricated, or forged metal. If welded to tank, it must be of good weldable quality in conjunction with metal of tank.

(e) The closure of the washout nozzle must be equipped with a ¾ inch solid screw plug. Plug must be secured to car structure or washout chamber by at least a ¼ inch chain.

(f) For bottom washout nozzles that project 6 inches or more from shell of tank, a "V" groove must be cut (not cast) in the upper part of bottom washout nozzle at a point immediately below lowest part of inside closure seat to a depth that will leave thickness of nozzle wall at root of the "V" not over ⅜ inch. Where bottom washout nozzle is not a single piece, arrangement must be made to provide the equivalent of the breakage groove.

(g) The flange on the bottom washout nozzle must be of a thickness which will prevent distortion of the inside closure seat of closure detail by any change in contour of the shell, resulting from expansion of lading, or other causes, and which will insure that accidental breakage of the washout nozzle will occur at or below the "V" groove.

(h) The closure detail must not project below the "V" groove in the washout nozzle. The closure detail and seat must be readily accessible for repairs, including grinding.

§ 78.304–17 *Venting, loading and unloading devices.* (a) Tank must be provided with a venting device and a loading and unloading device of approved design and made of material not subject to rapid deterioration by the lading and be tightly closed.

(b) The venting device shall be an opening to permit application of pressure to tank. The loading and unloading device shall be a pipe extending down to the bottom of the tank so that, by application of pressure, the contents of tank can be completely removed. The pipe shall be securely anchored at its lower end to prevent damage from surge of liquid.

(c) When the characteristics of the commodity for which the car is authorized are such that these devices must be equipped with valves to provide for the loading and unloading of the contents, these devices, including valves, must be of an approved design and be provided with a protective housing or equivalent. Provision must be made for closing pipe connections of valves.

§ 78.304–18 *Gauging devices.* (a) Outage for these tanks must be provided within the tank shell; therefore, an outage scale visible from manway when cover is open must be provided.

(b) A telltale pipe must be applied with a ¼ inch control valve mounted outside of the tank and enclosed within a cap. The telltale pipe shall measure a liquid level that will indicate an outage not less than that specified for tanks equipped with Group 2 fittings. This requirement is to permit tank to be loaded with the manway cover closed.

§ 78.304–19 *Vacuum breaker.* (a) To prevent pressure reduction of more than 1½ pounds per square inch below atmospheric pressure, when unloading a tank with a closed manway cover, or from drop in temperature with subsequent shrinkage of lading, each tank shall be equipped with a valve of approved design.

§ 78.304–20 *Safety vents.* (a) Safety valves are prohibited. Tanks equipped with Group 2 fittings must have a safety vent of an approved design.

(b) Each tank or compartment thereof, must be equipped with one safety vent at least 1¾ inches inside diameter, closed with a frangible disc of lead or other suitable material of a thickness that will rupture at a pressure of not more than 75 pounds per square inch. Means for holding disc in place must be such as to prevent distortion or damage to disc when applied. Safety vent closure must be chained or otherwise fastened to prevent misplacement.

(c) Safety vent flanges, if welded to tank, must be of cast, forged, or fabricated metal and be of good weldable quality in conjunction with the metal of the tank.

§ 78.304–21 *Interior heater systems.* (a) Not a specification requirement. When installed, see §§ 78.260 and 78.261, heater systems.

(b) Flanges for interior heater systems and plugs must be of cast, forged, or fabricated metal. Flanges must be of good weldable quality in conjunction with the metal of the tank.

(c) Interior heater systems, when installed, must be so constructed that the breaking off of their external connections will not cause leakage of contents of tank.

(d) Interior heater systems must be tested with hydrostatic pressure and must be tight at 200 pounds per square inch.

28. Add § 78.305 (21 F. R. 4628, June 26, 1956) to read as follows:

§ 78.305 *Specification ICC–111A100–W–3; fusion-welded steel tanks to be mounted on or forming part of a car.* (a) Wherever the word "approved" is used in this specification, it means approval by the Association of American Railroads Committee on Tank Cars as prescribed in § 78.259 *Application for Approval* (a), (b), (c) and (d).

§ 78.305–1 *Type.* (a) Tanks built under this specification must be cylindrical with heads designed convex outward. When the interior of the tank is divided into compartments, each compartment must have two heads convex outward. The tank shell, or each compartment, must be provided with manway and such other external projections as are prescribed herein.

§ 78.305–2 *Bursting pressure.* (a) The calculated bursting pressure, based on the lowest tensile strength of the plate and the efficiency of the longitudinal welded joint, must be not less than 500 pounds per square inch.

§ 78.305–3 *Thickness of plates.* (a) (1) The wall thickness in the cylindrical portion of the tank must be calculated by the following formula, but in no case shall the wall thickness be less than 7/16 inch:

$$t=\frac{Pd}{2SE}$$

where t=thickness in inches of the thinnest plate; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch; E=efficiency of longitudinal welded joint=90 percent.

(2) For tanks without an underframe, the cylindrical portion of the tank must have a thickness that will result in stress not exceeding 16,000 pounds per square inch as a result of 800,000 pounds impact and the end load ratio must not exceed 0.05.

(b) The thickness of an ellipsoidal head in which the ellipsoid of revolution has the major axis equal to the inside diameter of the shell and the minor axis is one-half the major axis, shall be determined by the following formula:

$$t=\frac{Pd}{2SE}$$

where t=thickness of plate in inches; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch; E=efficiency of welded joint, if any,=90 percent; if head is made in one piece, E=100 percent.

(c) The minimum thickness of clad plates, where cladding material has physical properties at least equal to that of the base plate, may be considered as part of the base plate for determining total thickness of plate required. Where the cladding material does not have physical properties at least equal to that of the base plate, the cladded thickness must be added to that required for the base plate.

§ 78.305–4 *Openings in the tank.* (a) Openings for manway nozzle or other fittings must be reinforced in an approved manner.

§ 78.305–5 *Material.* (a) All plates for tank must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification, the carbon content of which shall not exceed 0.31 percent. These plates may also be clad with other metals, such as nickel.

(b) All castings used for fittings or attachments to tank must be made of material to an approved specification. Use of cast iron is prohibited.

(c) All external projections must be made of materials specified herein.

§ 78.305–6 *Tank heads.* (a) The tank head shape shall be an ellipsoid of revolution in which the major axis shall equal the diameter of the shell and the minor axis shall be one-half the major axis.

§ 78.305–7 *Welding.* (a) All joints must be fusion-welded by a process which investigation and laboratory tests by the Mechanical Division of the Association of American Railroads have proved will produce satisfactory results. Fusion-welding to be performed by fabricators certified by the Association of American Railroads as qualified to meet the requirements of this specification. All joints must be fabricated by means of fusion-welding in accordance with the requirements of A. A. R. Welding Code, Appendix W.

§ 78.305–8 *Stress-relieving.* (a) All welding of the tank shell and of attachments welded directly thereto must be stress-relieved as a unit. (See A. A. R. Appendix W.)

§ 78.305–9 *Tank-mounting.* (a) The manner in which the tank is supported on and securely attached to the car structure must be approved.

(b) The use of rivets as a means of securing anchor to the tank is prohibited.

§ 78.305–10 *Tests of tanks.* (a) Each tank must be tested by completely filling tank and nozzles with water, or other liquid of similar viscosity, having a temperature which must not exceed 100 degrees Fahrenheit during the test, and applying a pressure of 100 pounds per square inch. The tank must hold the prescribed pressure for at least 10 minutes without leakage or evidence of distress.

(b) If tanks are lagged, the test of tank must be made before lagging is applied.

(c) Calking of welded joints to stop leaks developed during the foregoing tests is prohibited. Repairs in welded joints must be made as prescribed in § 78.305–7 (a).

§ 78.305–11 *Marking.* (a) Each tank must be marked, thus certifying that the tank complies with all the requirements of this specification, as follows:

(1) ICC–111A100–W in letters and figures at least 3/8 inch high, stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If the tanks are fabricated from ASTM A–212 Grade A or B steel, the specification number of this material must also be stamped in letters and figures at least 3/8 inch high into the metal near the center of both outside heads of the tank by the tank builder. ICC–111A100–W–3 must also be stenciled on the tank, or jacket if lagged, in letters and figures at least 2 inches high by the party assembling the completed car, using the classification group number for the stenciled marking.

(2) Initials of the tank builder and date of original test of tank, in letters and figures at least 3/8 inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (1) of this paragraph.

(3) Initials of company and date of additional tests performed by the party assembling the completed car, in those cases where the tank builder does not complete the fabrication of tank, in letters and figures at least 3/8 inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (2) of this paragraph by the party assembling the completed car. These marks must also be stenciled on the tank, or jacket if lagged, in letters and figures at least 2 inches high, immediately below the stenciled mark specified in subparagraph (1) of this paragraph by the party assembling the completed car.

(4) Date on which the tank was last tested, pressure to which tested, place where test was made, and by whom, stenciled on the tank, or jacket if lagged.

(5) Date on which the safety valves were last tested, pressure to which tested, place where test was made, and by whom, stenciled on the tank, or jacket if lagged.

(6) Date on which the interior heater systems were last tested, pressure to which tested, place where test was made, and by whom, stenciled on the tank, or jacket if lagged.

(7) When a tank car and its appurtenances are designed and authorized for the transportation of a particular commodity, the name of that commodity followed by the word "only", or such other wording as may be required to indicate the limits of usage of the car, must be stenciled on each side of the tank, or jacket if lagged, in letters at least 1 inch high, immediately above the stenciled mark specified in subparagraph (1) of this paragraph.

(8) Tanks made of clad plates must be stenciled on the tank, or jacket if lagged, (naming material) ---------- clad tanks. Lined tanks must be stenciled on the tanks, or jacket if lagged, (naming material) ---------- lined tank. These marks must be in letters at least 2 inches high, immediately above the stenciled mark specified in subparagraph (1) of this paragraph.

§ 78.305–12 *Reports.* (a) Before a tank car is placed in service, the party assembling the completed car must furnish to car owner, Bureau of Explosives, and the Secretary, Mechanical Division, Association of American Railroads, a report in approved form certifying that the tank and its equipment comply with all the requirements of this specification. In case of welded repairs to, alterations of, or additions to tanks or equipment from original design and construction, all of which must be approved, there must be furnished to the same parties a report in detail of the welded repairs, alterations or additions made to each tank covered by a particular application showing initials and number of each tank involved. Reports of retests must be rendered to the Bureau of Explosives and car owner.

§ 78.305–13 *Outage.* (a) Tanks with Group 3 fittings and appurtenances will require a minimum outage of 2 percent. This outage must be provided in the tank shell.

§ 78.305–14 *Lagging.* (a) The tank shell must be lagged with an approved insulation material of a thickness so that the thermal conductance is not more than 0.225 B. t. u. per square foot, per degree Fahrenheit differential in temperature per hour at 60 degrees. The entire insulation must be covered with a metal jacket not less than ⅛ inch in thickness and efficiently flashed around all openings so as to be weather-tight. When heater systems are attached to exterior of tank, the lagging over each heater element may be reduced in thickness equivalent to ½ that required for the shell.

(b) Before lagging is applied, the tank surface and the inside surface of the metal jacket shall be given a protective coating.

§ 78.305–15 *Closures for manway.* (a) The manway cover must be of an approved type and designed to make it impossible to remove the cover while the interior of the tank is subjected to pressure.

(b) Manway covers must be made of cast, forged, or fabricated steel. Manway ring must be made of cast, forged, or fabricated steel and be of good weldable quality in conjunction with metal of the tank.

(c) All covers not hinged must be attached to outside of tank by at least ⅜ inch chain or its equivalent.

(d) All joints between manway covers and their seats must be made tight against leakage of vapor or liquid by use of gaskets of suitable material.

§ 78.305–16 *Bottom outlets.* (a) The bottom outlet, when installed, must be made of metal not subject to rapid deterioration by the lading, must be of approved design and be provided with a liquid tight closure at the outlet end.

(b) The valve operating mechanism and outlet nozzle construction must be such as to insure against unseating of valve due to stresses or shocks incidental to transportation.

(c) Bottom outlet nozzle may be of cast, forged, or fabricated metal. If outlet nozzle is welded to tank, it must be of cast, forged, or fabricated metal and be of good weldable quality in conjunction with the metal of the tank.

(d) To provide for the attachment of standard unloading connections, the bottom of the main portion of the outlet nozzle or some fixed attachment thereto, must have external Unified Form Threads, 4 threads to the inch.

(e) For outlet nozzles that extend 6 inches or more from the shell of the tank, a "V" groove must be cut (not cast) in the upper part of outlet nozzle at a point immediately below lowest part of valve to a depth that will leave thickness of nozzle wall at root of the "V" not over ⅜ inch. In the case of steam jacketed outlet nozzles, this groove must be below the steam chamber, but not more than 15 inches from the tank. Where the outlet nozzle is not a single piece, arrangement must be made to provide the equivalent of the breakage groove.

(f) The flange on the outlet nozzle must be of thickness which will prevent distortion of the valve seat or valve by any change in contour of the shell resulting from expansion of the lading, or other causes, and which will insure that accidental breakage of the outlet nozzle will occur at or below the "V" groove.

(g) The valve must have no wings or stem projecting below the "V" groove in the outlet nozzle. The valve and seat must be readily accessible or removable for repairs, including grinding.

(h) The valve operating mechanism must have means for compensating for variation in the vertical diameter of the tank produced by expansion, weight of the liquid contents, or other causes, and should operate from the exterior of the tank. Leakage must be prevented by packing in stuffing box or other suitable seals and a cap.

(i) In no case must extreme projection of bottom outlet equipment extend to within 12 inches above top of rail. All bottom outlet reducers and closures and their attachments must be secured to car by at least ⅜-inch chain or its equivalent, except that outlet closure plugs may be attached by ¼-inch chain. When the bottom outlet closure is on the combination cap and valve type, the pipe connection to the valve must be closed by a plug or cap.

§ 78.305–17 *Venting, loading and unloading devices.* (a) Tank must be provided with a venting device and a loading and unloading device of approved design and made of material not subject to rapid deterioration by the lading and be tightly closed.

(b) The venting device shall be an opening to permit application of pressure to tank. The loading and unloading device shall be a pipe extending down to the bottom of the tank so that, by application of pressure, the contents of tank can be completely removed. The pipe shall be securely anchored at its lower end to prevent damage from surge of liquid.

(c) These devices must be equipped with valves to provide for the loading and unloading of the contents. These devices including valves, must be of an approved design and provided with a protective housing or equivalent. Provision must be made for closing pipe connections of valves.

§ 78.305–18 *Gauging device.* (a) Outage for these tanks must be provided within the tank shell; therefore, an outage scale visible from manway when cover is open must be provided.

(b) A telltale pipe must be applied with a ¼-inch control valve mounted outside of the tank and enclosed within a cap. The telltale pipe shall measure a liquid level that will indicate an outage not less than that specified for tanks equipped with Group 3 fittings. This requirement is to permit tank to be loaded with the manway cover closed.

§ 78.305–19 *Vacuum breaker.* (a) To prevent reduction of more than 1½ pounds per square inch below atmospheric pressure, when unloading a tank with a closed manway cover, or from drop in temperature with a subsequent shrinkage of lading, each tank shall be equipped with a valve of approved design.

§ 78.305–20 *Safety valves.* (a) The tank, or each compartment thereof, must be equipped with one or more safety valves of approved design, mounted on suitable nozzles securely attached to the top of the tank. Total valve discharge capacity must be sufficient to prevent building up of pressure in tank in excess of 85 pounds per square inch.

(b) Each safety valve must be set for a start-to-discharge pressure of 75 pounds per square inch and be vapor tight at 60 pounds per square inch. (For tolerance see § 78.305–21 (a).)

(c) Tanks used for the transportation of corrosive liquids, flammable solids, oxidizing materials, or poisonous liquids or solids, class B, need not be equipped with safety valves, but if not so equipped, must have one safety vent at least 1¾ inches inside diameter, closed with a frangible disc of lead or other suitable material of a thickness that will rupture at a pressure of not more than 75 pounds per square inch. Means for holding disc in place must be such as to prevent distortion or damage to disc when applied. Safety vent closure must be chained or otherwise fastened to prevent misplacement. All tanks equipped with vents must be stenciled "Not For Flammable Liquids".

§ 78.305–21 *Tests of safety valves.* (a) Each valve must be tested by air or gas before being put into service. The valve must start to discharge at a pressure of 75 pounds per square inch and be vapor tight at 60 pounds per square inch, which limiting pressure must not be affected by any auxiliary closure or other combination. The valves must start to discharge at the pressure prescribed in § 78.305–20 (b) with a tolerance of plus or minus 3 pounds.

§ 78.305–22 *Interior heater systems.* (a) Not a specification requirement. When installed, see §§ 78.260 and 78.261, heater systems.

(b) Flanges for interior heater systems and plugs must be of cast, forged, or fabricated metal. Flanges must be of good weldable quality in conjunction with the metal of tank.

(c) Interior heater systems, when installed, must be so constructed that the breaking off of their external connections will not cause leakage of contents of tank.

(d) Interior heater systems must be tested with hydrostatic pressure and must be tight at 200 pounds per square inch.

29. Add § 78.306 (21 F. R. 4628, June 26, 1956) to read as follows:

§ 78.306 *Specification ICC–111A100–W–4; fusion-welded steel tanks to be mounted on or forming part of a car.* (a) Wherever the word "approved" is used in this specification, it means approval by the Association of American Railroads Committee on Tank Cars as prescribed in § 78.259 (a), (b), (c) and (d).

§ 78.306–1 *Type.* (a) Tanks built under this specification must be cylindrical with heads designed convex outward. When the interior of the tank is divided into compartments, each compartment must have two heads designed convex outward. The tank shell, or each compartment, must be provided with manway and such other external projections as are prescribed herein.

§ 78.306–2 *Bursting pressure.* (a) The calculated bursting pressure, based on the lowest tensile strength of the plate and the efficiency of the longitudinal welded joint, must be not less than 500 pounds per square inch.

§ 78.306–3 *Thickness of plates.* (a) (1) The wall thickness in the cylindrical portion of the tank must be calculated by the following formula, but in no case shall the wall thickness be less than 7/16 inch:

$$t=\frac{Pd}{2SE}$$

where t=thickness in inches of the thinnest plate; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch; E=efficiency of longitudinal welded joint=90 percent.

(2) For tanks without an underframe, the cylindrical portion of the tank must have a thickness that will result in stress not exceeding 16,000 pounds per square inch as a result of 800,000 pounds impact and the end load ratio must not exceed 0.05.

(b) The thickness of an ellipsoidal head in which the ellipsoid of revolution has the major axis equal to the inside diameter of the shell and the minor axis is one-half the major axis, shall be determined by the following formula:

$$t=\frac{Pd}{2SE}$$

where t=thickness of plate in inches; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch; E=efficiency of welded joint, if any, =90 percent; if head is made in one piece, E=100 percent.

(c) The minimum thickness of clad plates, where cladding material has physical properties at least equal to that of the base plate, may be considered as part of the base plate for determining total thickness of plate required. Where the cladding material does not have physical properties at least equal to that of the base plate, the cladded thickness must be added to that required for the base plate.

§ 78.306–4 *Openings in the tank.* (a) Openings for manway nozzle or other fittings must be reinforced in an approved manner.

§ 78.306–5 *Material.* (a) All plates for tank must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification, the carbon content of which shall not exceed 0.31 percent. These plates may also be clad with other metals, such as nickel.

(b) All castings used for fittings or attachments to tank must be made of material to an approved specification. Use of cast iron is prohibited.

(c) All external projections must be made of materials specified herein.

§ 78.306–6 *Tank heads.* (a) The tank head shape shall be an ellipsoid of revolution in which the major axis shall equal the diameter of the shell and the minor axis shall be one-half the major axis.

§ 78.306–7 *Welding.* (a) All joints must be fusion-welded by a process which investigation and laboratory tests by the Mechanical Division of the Association of American Railroads have proved will produce satisfactory results. Fusion-welding to be performed by fabricators certified by the Association of American Railroads as qualified to meet the requirements of this specification. All joints must be fabricated by means of fusion-welding in accordance with the requirements of A. A. R. Welding Code, Appendix W.

§ 78.306–8 *Stress-relieving.* (a) All welding of the tank shell and of attachments welded directly thereto must be stress-relieved as a unit. (See A. A. R. Appendix W.)

§ 78.306–9 *Tank mounting.* (a) The manner in which the tank is supported on and securely attached to the car structure must be approved.

(b) The use of rivets as a means of securing anchor to the tank is prohibited.

§ 78.306–10 *Tests of tanks.* (a) Each tank must be tested by completely filling tank and nozzles with water, or other liquid of similar viscosity, having a temperature which must not exceed 100 degrees Fahrenheit during the test, and applying a pressure of 100 pounds per square inch. The tank must hold the prescribed pressure for at least 10 minutes without leakage or evidence of distress.

(b) If tanks are lagged, the test of tank must be made before lagging is applied.

(c) Calking of welded joints to stop leaks developed during the foregoing tests is prohibited. Repairs in welded joints must be made as prescribed in § 78.306–7 (a).

§ 78.306–11 *Marking.* (a) Each tank must be marked, thus certifying that the tank complies with all the requirements of this specification, as follows:

(1) ICC–111A100–W in letters and figures at least 3/8 inch high, stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If the tanks are fabricated from ASTM A–212 Grade A or B steel, the specification number of this material must also be stamped in letters and figures at least 3/8 inch high into the metal near the center of both outside heads of the tank by the tank builder. ICC–111A100–W–4 must also be stenciled on the tank, or jacket if lagged, in letters and figures at least 2 inches high by the party assembling the completed car, using the classification group number for the stenciled marking.

(2) Initials of the tank builder and date of original test of tank, in letters and figures at least 3/8 inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (1) of this paragraph.

(3) Initials of company and date of additional tests performed by the party assembling the completed car, in those cases where the tank builder does not complete the fabrication of tank, in letters and figures at least 3/8 inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (2) of this paragraph by the party assembling the completed car. These marks must also be stenciled on the tank, or jacket if lagged, in letters and figures at least 2 inches high, immediately below the stenciled mark specified in subparagraph (1) of this paragraph by the party assembling the completed car.

(4) Date on which the tank was last tested, pressure to which tested, place where test was made, and by whom, stenciled on the tank, or jacket if lagged.

(5) Date on which the safety valves were last tested, pressure to which tested, place where test was made, and by whom, stenciled on the tank, or jacket if lagged.

(6) Date on which the interior heater systems were last tested, pressure to which tested, place where test was made, and by whom, stenciled on the tank, or jacket if lagged.

(7) When a tank car and its appurtenances are designed and authorized for the transportation of a particular commodity, the name of that commodity followed by the word "only", or such other wording as may be required to indicate the limits of usage of the car, must be stenciled on each side of the tank, or jacket if lagged, in letters at least 1 inch high, immediately above the stenciled mark specified in subparagraph (1) of this paragraph.

(8) Tanks made of clad plates must be stenciled on the tank, or jacket if lagged (naming material) ---------- clad tanks. Lined tanks must be stenciled on the tanks, or jacket if lagged (naming material) ---------- lined

tank. Those marks must be in letters at least 2 inches high, immediately above the stenciled mark specified in subparagraph (1) of this paragraph.

§ 78.306–12 *Reports.* (a) Before a tank car is placed in service, the party assembling the completed car must furnish to car owner, Bureau of Explosives, and the Secretary, Mechanical Division, Association of American Railroads, a report in approved form certifying that the tank and its equipment comply with all the requirements of this specification. In case of welded repairs to, alterations of, or additions to tanks or equipment from original design and construction, all of which must be approved, there must be furnished to the same parties a report in detail of the welded repairs, alterations, or additions made to each tank covered by a particular application showing initials and number of each tank involved. Reports of retests must be rendered to the Bureau of Explosives and car owner.

§ 78.306–13 *Outage.* (a) Tanks with Group 4 fittings and appurtenances will require outage complying with the maximum permitted filling density, § 73.314 (a) of this chapter.

§ 78.306–14 *Lagging.* (a) The tank shell must be lagged with an approved insulation material of a thickness so that the thermal conductance is not more than 0.075 B. t. u. per square foot, per degree Fahrenheit differential in temperature per hour at 60 degrees. The entire insulation must be covered with a metal jacket not less than ⅛ inch in thickness and efficiently flashed around all openings so as to be weather-tight. When heater systems are attached to exterior of tank, the lagging over each heater element may be reduced in thickness equivalent to ½ that required for the shell.

(b) Before lagging is applied, the tank surface and the inside surface of the metal jacket shall be given a protective coating.

§ 78.306–15 *Closures for manway.* (a) The manway cover must be of an approved type and designed to make it impossible to remove the cover while the interior of the tank is subjected to pressure.

(b) Manway cover must be made of cast, forged, or fabricated steel. Manway ring must be made of cast, forged, or fabricated steel and be of good weldable quality in conjunction with the metal of the tank.

(c) All covers not hinged must be attached to outside of tank by at least ⅜ inch chain or its equivalent.

(d) All joints between manway covers and their seats must be made tight against leakage of vapor or liquid by use of gaskets of suitable material.

§ 78.306–16 *Bottom outlets.* (a) The bottom outlet is prohibited.

§ 78.306–17 *Venting, loading, and unloading devices.* (a) Tank must be provided with a venting device and a loading and unloading device of approved design and made of material not subject to rapid deterioration by the lading and be tightly closed.

(b) The venting device shall be an opening to permit application of pressure to tank. The loading and unloading device shall be a pipe extending down to the bottom of the tank so that, by application of pressure, the contents of tank can be completely removed. The pipe shall be securely anchored at its lower end to prevent damage from surge of liquid.

(c) These devices must be equipped with valves to provide for the loading and unloading of the contents. These devices, including valves, must be of an approved design and be provided with a protective housing or equivalent. Provision must be made for closing pipe connections of valves.

§ 78.306–18 *Gauging device.* (a) A gauging device of an approved design must be applied to permit determining the liquid level of the lading. The interior pipe of the gauging device must be equipped with an excess flow valve of an approved design. This device must be provided with a protective housing.

§ 78.306–19 *Vacuum breaker.* (a) The vacuum breaker is not a specification requirement.

§ 78.306–20 *Safety valves.* (a) The tank, or each compartment thereof, must be equipped with one or more safety valves of approved design, mounted on suitable nozzles securely attached to the top of the tank. Total valve discharge capacity must be sufficient to prevent building up of pressure in tank in excess of 85 pounds per square inch.

(b) Each safety valve must be set for a start-to-discharge pressure of 75 pounds per square inch and be vapor tight at 60 pounds per square inch. (For tolerance see § 78.306–21 (a).)

§ 78.306–21 *Tests of safety valves.* (a) Each valve must be tested by air or gas before being put into service. The valve must start to discharge at a pressure of 75 pounds per square inch and be vapor tight at 60 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination. The valves must start to discharge at the pressure prescribed in § 78.306–20 (b) with a tolerance of plus or minus 3 pounds.

§ 78.306–22 *Heater systems.* (a) Not a specification requirement. When installed, see §§ 78.260 and 78.261, heater systems.

§ 78.306–23 *Sampling device and thermometer well.* (a) Sampling valve and thermometer well are not specification requirements. When used, they they must be of an approved design, made of metal not subject to rapid deterioration by the lading, and must withstand a pressure of 100 pounds per square inch without leakage. Interior pipes of the sampling valve must be equipped with excess flow valves of an approved design. Interior pipe of thermometer well must be closed by an approved valve attached close to fitting where it passes through the tank and closed by a screw plug. Other approved arrangements that permit testing thermometer wells for leaks without complete removal of the closure may be used.

30. Add § 78.307 (21 F. R. 4628, June 26, 1956) to read as follows:

§ 78.307 *Specification ICC–105A200–W; lagged fusion-welded steel tanks to be mounted on or forming part of a car.* (a) Wherever the word "approved" is used in this specification it means approval by the Association of American Railroads Committee on Tank Cars as prescribed in § 78.259 (a), (b), (c) and (d).

§ 78.307–1 *Type.* (a) Tanks built under this specification must be cylindrical with heads designed convex outward. The tanks must be provided with a manway nozzle and cover on top of the tank of sufficient diameter to permit access to the interior of the tank and to provide for the proper mounting of venting, loading, unloading, sampling and safety valves, gauging device, thermometer well, and a protective housing on the cover. Other openings in the tank prohibited.

§ 78.307–2 *Lagging.* (a) The tank shell and manway nozzle must be lagged with an approved insulation material of the thickness so that the thermal conductance is not more than 0.075 B. t. u. per square foot, per degree Fahrenheit differential in temperature per hour at 60 degrees. The entire insulation must be covered with a metal jacket and efficiently flashed around all openings so as to be weather-tight. When heater systems are attached to exterior of tank, the lagging over each heater element may be reduced in thickness to ½ that required for the shell.

(b) Before lagging is applied, the tank surface and the inside surface of the metal jacket shall be given a protective coating.

§ 78.307–3 *Bursting pressure.* (a) The calculated bursting pressure, based on the lowest tensile strength of the plate and the efficiency of the longitudinal welded joint must be at least 500 pounds per square inch.

§ 78.307–4 *Thickness of plates.* (a) The wall thickness in the cylindrical portion of the tank and tank heads, must be calculated by the following formula, but in no case shall the wall thickness be less than that specified in § 78.307–4 (b):

$$t=\frac{Pd}{2SE}$$

where t=thickness in inches of thinnest plate; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch; E=emciency of longitudinal welded joint=90 percent.

(b) The minimum thickness of plates must be as follows:

Inside diameter of tanks	Bottom sheets	Shell sheets	Tank heads
	Inch	Inch	Inch
87 inches or under	7/16	7/16	7/16
Over 87 to 96 inches	9/16	9/16	9/16

(c) The minimum thickness of clad plates, where cladding material has physical properties at least equal to that of the base plate prescribed in § 78.307–6 (a), must be as prescribed in the above table. Where the cladding material does not have physical properties at least equal to that of the base plate prescribed in § 78.307–6 (a), minimum thickness of base plate must be as prescribed in the above table.

§ 78.307–5 *Manway nozzle opening.* (a) Opening in tank for manway nozzle must be reinforced in an approved manner.

§ 78.307–6 *Material.* (a) All plates for tank and manway nozzle must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification, the carbon content of which shall not exceed 0.31 percent. These plates may also be clad with other metals, such as nickel.

(b) All castings used for fittings or attachments to tank must be made of material to an approved specification. Use of cast iron prohibited.

(c) All external projections must be made of materials specified herein.

§ 78.307–7 *Tank heads.* (a) The tank head shape shall be an ellipsoid of revolution in which the major axis shall equal the diameter of the shell and the minor axis shall be ½ the major axis.

§ 78.307–8 *Welding.* (a) All joints must be fusion-welded by a process which investigation and laboratory tests by the Mechanical Division of the Association of American Railroads have proved will produce satisfactory results. Fusion-welding to be performed by fabricators certified by Association of American Railroads as qualified to meet the requirements of this specification. All joints must be fabricated by means of fusion-welding in accordance with the requirements of A. A. R. Welding Code Appendix W.

§ 78.307–9 *Stress-relieving.* (a) All welding of the tank shell and of attachments welded directly thereto must be stress-relieved as a unit. (See A. A. R. Appendix W.)

§ 78.307–10 *Tank mounting.* (a) The manner in which the tank is supported on and securely attached to the car structure must be approved.

(b) The use of rivets as a means of securing anchor to the tank is prohibited.

§ 78.307–11 *Manway nozzle, cover and protective housing.* (a) Manway nozzle must be of approved design of cast, forged or rolled steel at least 18 inches inside diameter and attached to tank by fusion-welding. Fusion-welding for securing this attachment in place must be of the double-welded butt joint type or double full-fillet lap-joint type.

(b) Manway cover must be of forged or rolled steel at least 2¼ inches thick, machined to approved dimensions. Manway cover must be attached to manway nozzle by through or stud bolts not entering tank.

(c) The shearing value of the bolts attaching protective housing to manway cover must not exceed 70 percent of shearing value of bolts attaching manway cover to manway nozzle.

(d) All joints between manway cover and manway nozzle, and between manway cover and valves or other appurtenances mounted thereon must be made tight against vapor pressure.

(e) Protective housing of cast or fabricated steel must be bolted to manway cover. Housing must be equipped with a suitable metal cover that can be securely closed. Housing cover on tanks used for the transportation of liquefied flammable gases must be provided with an opening equipped with an approved weather-proof covering and having an area at least equal to the total safety valve discharge area. Housing cover must have suitable stop to prevent cover striking loading or unloading connections and be hinged on one side only with approved riveted pin or rod with nuts and cotters. Openings in wall of housing must be equipped with screw plugs or other closures.

§ 78.307–12 *Venting, loading and unloading, gauging, and sampling devices and thermometer well.* (a) Venting, loading and unloading valves must be of approved type, made of metal not subject to rapid deterioration by the lading, and must withstand a pressure of 200 pounds per square inch without leakage. The valves must be directly bolted to seatings on manway cover. Pipe connections of valves must be closed with approved screw plugs chained or otherwise fastened to prevent misplacement.

(b) Interior pipes of the loading and unloading valves, except as prescribed in § 78.307–12 (d), may be equipped with excess flow valves of an approved design.

(c) Gauging device, sampling valve and thermometer well are not specification requirements. When used they must be of approved design, made of metal not subject to rapid deterioration by the lading, and must withstand a pressure of 200 pounds per square inch without leakage. Interior pipes of the gauging device and sampling valve, except as prescribed in § 78.307–12 (d), may be equipped with excess flow valves of an approved design. Interior pipe of thermometer well must be anchored in an approved manner to prevent breakage due to vibration. The thermometer well must be closed by an approved valve attached close to the manway cover and closed by a screw plug. Other approved arrangements that permit testing thermometer well for leaks without complete removal of the closure may be used.

(d) Tanks used for the transportation of liquefied flammable gases must have the interior pipes of the loading and unloading valves, gauging device and sampling valve equipped with excess flow valves of an approved design.

§ 78.307–13 *Safety valves.* (a) The tank must be equipped with one or more safety valves of approved design, made of metal not subject to rapid deterioration by lading and mounted on manway cover. The total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 165 pounds per square inch.

(b) The safety valve must be set for a start-to-discharge pressure of 150 pounds per square inch. (For tolerance see § 78.307–17 (a).)

§ 78.307–14 *Fixtures, reinforcements, and attachments not otherwise specified.* (a) Attachments, other than anchorage and those mounted on manway cover, are prohibited. Heater systems may be applied to exterior of tank by tank bands or other approved methods.

§ 78.307–15 *Closures for openings.* (a) Plugs must be of approved type, with standard pipe thread, and made of metal not subject to rapid deterioration by the lading.

§ 78.307–16 *Tests of tanks.* (a) Each tank must be tested by completely filling tank and manway nozzle with water or other liquid of similar viscosity, having a temperature which must not exceed 100 degrees Fahrenheit during the test, and applying a pressure of 200 pounds per square inch. The tank must hold the prescribed pressure for at least 10 minutes without leakage or evidence of distress.

(b) Calking of welded joints to stop leaks developed during the foregoing tests is prohibited. Repairs in welded joints must be made as prescribed in § 78.307–8 (a).

(c) Tests of exterior heater systems, not a specification requirement.

§ 78.307–17 *Tests of safety valves.* (a) Each valve must be tested by air or gas before being put into service. The valve must start to discharge at a pressure of 150 pounds per square inch and be vapor tight at 120 pounds per square inch, which limiting pressure must not be affected by any auxiliary closure or other combination. The valve must start to discharge at the pressure prescribed in § 78.307–13 (b) with a tolerance of plus or minus 3 percent.

§ 78.307–18 *Marking.* (a) Each tank must be marked, thus certifying that the tank complies with all the requirements of this specification as follows:

(1) ICC–105A200–W in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If tanks are fabricated from ASTM Grade A or B steel, the specification number of this material must also be stamped in letters and figures at least ⅜ inch high into the metal near the center of both outside heads by the tank builder. ICC–105A200–W must also be stenciled on the jacket in letters and figures at least 2 inches high by the party assembling the completed car.

(2) Initials of tank builder and date of original test of tank in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (1) of this paragraph.

(3) Initials of company and date of additional tests performed by the party assembling the completed car, in those cases where the tank builder does not complete the fabrication of tank, in letters and figures at least ⅜ inch high stamped plainly and permanently into

the metal immediately below the stamped marks specified in subparagraph (2) of this paragraph, by the party assembling the completed car. These marks must also be stenciled on the jacket in letters and figures at least 2 inches high immediately below the stenciled mark specified in subparagraph (1) of this paragraph by the party assembling the completed car.

(4) Date on which the tank was last tested, pressure to which tested, place where test was made and by whom, stenciled on the jacket.

(5) Date on which the safety valves were last tested, pressure to which tested, place where test was made and by whom, stenciled on the jacket.

(6) Water capacity of the tank in pounds stamped plainly and permanently in letters and figures at least ⅜ inch high into the metal of the tank immediately below the mark specified in subparagraphs (2) and (3) of this paragraph. This mark must also be stenciled on the jacket immediately below the dome platform and either directly behind or within 3 feet of the right or left side of the ladder, or ladders if there is a ladder on each side of the tank, in letters and figures at least 2 inches high as follows:

WATER CAPACITY
000000 POUNDS

(7) When a tank car and its appurtenances are designed and authorized for the transportation of a particular commodity only, the name of that commodity followed by the word "only", or such other wording as may be required to indicate the limits of usage of the car, must be stenciled on each side of the jacket, in letters at least 1 inch high, immediately above the stenciled mark specified in subparagraph (1) of this paragraph.

(8) Tanks made of clad plates must be stenciled on the jacket (naming material) ---------- clad tank. Lined tanks must be stenciled on the jacket (naming material) ---------- lined tanks. These marks must be in letters at least 2 inches high, immediately above the stenciled mark specified in subparagraph (1) of this paragraph.

§ 78.307–19 *Reports.* (a) Before a tank car is placed in service, the party assembling the completed car must furnish to car owner, Bureau of Explosives, and the Secretary, Mechanical Division, Association of American Railroads, a report in approved form certifying that the tank and its equipment comply with all the requirements of this specification. In case of welded repairs to, alterations of, or additions to tanks or equipment from original design and construction, all of which must be approved, there must be furnished to the same parties a report in detail of the welded repairs, alterations or additions made to each tank covered by a particular application, showing the initials and numbers of each tank involved. Reports of retests must be rendered to the Bureau of Explosives and car owner.

31. Add § 78.308 (21 F. R. 4628, June 26, 1956) to read as follows:

§ 78.308 *Specification ICC–105A200–AL–W; lagged fusion-welded aluminum tanks to be mounted on or forming part of a car.* (a) Wherever the word "approved" is used in this specification it means approval by the Association of American Railroads Committee on Tank Cars as prescribed in § 78.259 (a), (b), (c) and (d).

§ 78.308–1 *Type.* (a) Tanks built under this specification must be cylindrical, with heads designed convex outward. The tank must be provided with a manway nozzle and cover on top of the tank of sufficient diameter to permit access to the interior of the tank and to provide for the proper mounting of venting, loading, unloading, sampling and safety valves, gauging device, thermometer well and a protective housing on the cover. Other openings in the tank are prohibited.

§ 78.308–2 *Lagging.* (a) The tank shell and manway nozzle must be lagged with an approved insulation material of a thickness so that the thermal conductance is not more than 0.075 B. t. u. per square foot, per degree Fahrenheit differential in temperature per hour at 60 degrees. The entire insulation must be covered with a metal jacket not less than ⅛ inch in thickness and efficiently flashed around all openings so as to be weathertight. When heater systems are attached to the exterior of the tank, the lagging over each heater element may be reduced in thickness to ½ that required for the shell.

(b) Before lagging is applied, the tank surface and the inside surface of the metal jacket shall be given a protective coating.

§ 78.308–3 *Bursting pressure.* (a) The calculated bursting pressure, based on the lowest tensile strength of the plate and the efficiency of the longitudinal welded joint, must be at least 500 pounds per square inch.

§ 78.308–4 *Thickness of plates.* (a) The wall thickness in the cylindrical portion of the tank must be calculated by the following formula:

$$t=\frac{Pd}{2SE}$$

where t=thickness in inches of thinnest plate; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch as follows:

ASTM B–178 Alloy 996A	=	9,500 psi.
ASTM B–178 Alloy 990A	=	11,000 psi.
ASTM B–178 Alloy M1A	=	14,000 psi.
ASTM B–178 Alloy GR20A	=	25,000 psi.
ASTM B–178 Alloy GS11A	=	24,000 psi.
ASTM B–178 Alloy GR40A	=	30,000 psi.

E=efficiency of longitudinal welded joint=90 percent.

(b) The minimum width of bottom sheet of tank must be 60 inches, measured on the arc, but in all cases the width must be sufficient to bring the entire width of the longitudinal welded joint, including welds, above the cradle.

(c) The thickness of an ellipsoidal head shall be determined by the following formula:

$$t=\frac{Pd}{2SE}$$

where t=thickness of plate in inches; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch (see § 78.308–4 (a)); E=efficiency of welded joint to shell=100 percent.

(d) Minimum thickness of plates and heads shall not be less than ⅜ inch.

§ 78.308–5 *Manway nozzle opening.* (a) Opening in tank for manway nozzle must be reinforced in an approved manner.

§ 78.308–6 *Material.* (a) All plates for tank and manway nozzle must be made of an aluminum alloy to an approved specification and be suitable for fusion-welding and not subject to rapid deterioration by the lading.

(b) Aluminum alloy castings used for fittings or attachment to tank must be made of material to an approved specification.

(c) All external projections which may be in contact with the lading must be made of material specified herein.

§ 78.308–7 *Tank heads.* (a) Tank heads must be of approved contour and must be ellipsoidal for pressure on the concave side.

(b) Ellipsoidal tank head shall be an ellipsoid of revolution in which the major axis shall equal the diameter of the shell and the minor axis shall be ½ the major axis.

§ 78.308–8 *Welding.* (a) All joints must be fusion-welded by a process which investigation and laboratory tests by the Mechanical Division of the Association of American Railroads have proved will produce satisfactory results. Fusion-welding to be performed by fabricators certified by the Association of American Railroads as qualified to meet the requirements of this specification. All joints must be fabricated by means of fusion-welding in accordance with the requirements of A. A. R. Welding Code Appendix W.

§ 78.308–9 *Stress-relieving.* (a) Not a specification requirement.

§ 78.308–10 *Tank mounting.* (a) The manner in which the tank is supported on and securely attached to the car structure must be approved.

(b) The use of rivets as a means of securing anchor to the tank is prohibited.

§ 78.308–11 *Manway nozzle, cover and protective housing.* (a) Manway nozzle must be of cast, forged, or fabricated aluminum alloy at least 18 inches inside diameter. Manway nozzle must be of approved design and attached to tank by fusion-welding. Fusion-welding for securing this attachment in place must be of the double-welded butt joint type or double full-fillet lap joint type.

(b) Manway cover must be of forged or rolled aluminum alloy at least 2½ inches thick, or other approved material at least 2¼ inches thick, machined to approved dimensions. Manway cover must be attached to nozzle by through bolts not entering tank.

(c) The shearing value of the bolts attaching protective housing to manway cover must not exceed 70 percent of shearing value of bolts attaching manway cover to manway nozzle.

(d) All joints between manway cover and manway nozzle, and between manway cover and valves, or other appurtenances mounted thereon, must be made tight against vapor pressure.

(e) Protective housing of cast or fabricated steel, or other approved materials, must be bolted to manway cover. Housing must be equipped with a suitable metal cover that can be securely closed. Housing cover on tanks used for the transportation of liquefied flammable gases must be provided with an opening equipped with an approved weather-proof covering and having an area at least equal to the total safety valve discharge area. Housing cover must have suitable stop to prevent cover striking loading or unloading connections and hinged on one side only with approved riveted pin or rod with nuts and cotters. Openings in wall of housing must be equipped with screw plugs or other closures.

§ 78.308–12 *Venting, loading and unloading, gauging and sampling devices.* (a) Venting, loading and unloading valves must be of approved type, made of metal not subject to rapid deterioration by the lading, and must withstand a pressure of 200 pounds per square inch without leakage. The valves must be directly bolted to seatings on manway cover. Pipe connections of valves must be closed with approved screw plugs chained or otherwise fastened to prevent misplacement.

(b) Interior pipes of the loading and unloading valves, except as prescribed in § 78.308–12 (d), may be equipped with excess flow valves of approved design, and must be securely anchored.

(c) Gauging device, sampling valve and thermometer well are not specification requirements. When used, they must be of approved design, and made of metal not subject to rapid deterioration by the lading, and must withstand a pressure of 200 pounds per square inch without leakage. Interior pipes of the gauging device and sampling valve, except as prescribed in § 78.308–12 (d), may be equipped with excess flow valves of an approved design. Interior pipe of thermometer well must be anchored in an approved manner to prevent breakage due to vibration. The thermometer well must be closed by an approved valve attached close to the manway cover and closed by a screw plug. Other approved arrangements that permit testing thermometer well for leaks without complete removal of the closure may be used.

(d) Tanks for use in the transportation of liquefied flammable gases must have the interior pipes of the loading and unloading valves, gauging device and sampling valve equipped with check valves of an approved design.

§ 78.308–13 *Safety valves.* (a) The tank must be equipped with one or more safety valves of approved design, made of metal not subject to rapid deterioration by lading and mounted on manway cover. The total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 165 pounds per square inch.

(b) The safety valve must be set for a start-to-discharge pressure of 150 pounds per square inch. (For tolerance see § 78.308–17 (a).)

§ 78.308–14 *Fixtures, reinforcements, and attachments not otherwise specified.* (a) Attachments, other than the anchorage, interior pipe bracing, and those mounted on manway cover, are prohibited. Heater systems may be applied to exterior of tank by tank bands or other approved method.

§ 78.308–15 *Closures for openings.* (a) Plugs must be of approved type, with standard pipe thread, and of metal not subject to rapid deterioration by the lading.

§ 78.308–16 *Tests of tanks.* (a) Each tank must be tested, after anchorage is applied and before tank lagging is applied, by completely filling the tank and manway nozzle with water or other liquid of similar viscosity, having a temperature which must not exceed 100 degrees Fahrenheit during test, and applying a pressure of 200 pounds per square inch. The tank must hold the prescribed pressure for at least 10 minutes without leakage or evidence of distress.

(b) Calking of welded joints to stop leaks developed during the foregoing tests is prohibited. Repairs in welded joints must be made as prescribed in § 78.308–8 (a).

(c) Tests of exterior heater systems are not a specification requirement.

§ 78.308–17 *Tests of safety valves.* (a) Each valve must be tested by air or gas before being put into service. The valve must start to discharge at a pressure of 150 pounds per square inch and be vapor tight at 120 pounds per square inch which limiting pressures must not be affected by an auxiliary closure or other combination. The valve must start to discharge at the pressure prescribed in § 78.309–13 (b) with a tolerance of plus or minus 3 percent.

§ 78.308–18. *Marking.* (a) Each tank must be marked, thus certifying that the tank complies with all the requirements of this specification. These marks must be as follows:

(1) ICC–105A200–AL–W and specification number of material used in tank shell and manway nozzle in letters and figures at least ⅜ inch high, stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. ICC–105A 200–AL–W must also be stenciled on the jacket in letters and figures at least 2 inches high by the party assembling the completed car.

(2) Initials of tank builder and date of original test of tank in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (1) of this paragraph.

(3) Initials of company and date of additional tests performed by the party assembling the completed car, in those cases where the tank builder does not complete the fabrication of tank in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (2) of this paragraph by the party assembling the completed car. These marks must also be stenciled on the jacket in letters and figures at least 2 inches high immediately below the stenciled mark specified in subparagraph (1) of this paragraph by the party assembling the completed car.

(4) Date on which the tank was last tested, pressure to which tested, place where test was made, and by whom, stenciled on the jacket.

(5) Date on which the safety valves were last tested, pressure to which tested, place where test was made, and by whom, stenciled on the jacket.

(6) When a tank car and its appurtenances are designed and authorized for the transportation of a particular commodity only, the name of that commodity followed by the word "only", or such other wording as may be required to indicate the limits of usage of the car, must be stenciled on each side of the jacket in letters at least 1 inch high, immediately above the stenciled mark specified in subparagraph (1) of this paragraph.

(7) Water capacity of the tank in pounds stamped plainly and permanently in letters and figures at least ⅜ inch high into the metal of the tank immediately below the mark specified in subparagraphs (2) and (3) of this paragraph. This mark must also be stenciled on the jacket immediately below the dome platform and either behind or within 3 feet of the right or left side of ladder, or ladders if there is a ladder on each side of the tank, in letters and figures at least 2 inches high as follows:

WATER CAPACITY
000000 POUNDS

§ 78.308–19 *Reports.* (a) Before a tank car is placed in service, the party assembling the completed car must furnish to car owner, Bureau of Explosives, and the Secretary, Mechanical Division, Association of American Railroads, a report in approved form certifying that the tank and its equipment comply with all the requirements of this specification. In case of welded repairs to, alterations of, or additions to tanks or equipment from original design and construction, all of which must be approved, there must be furnished to the same parties a report in detail of the welded repairs, alterations or additions made to each tank covered by a particular application, showing the initials and number of each tank involved. Reports of retests must be rendered to the Bureau of Explosives and car owner.

32. Add § 78.312 (21 F. R. 4628, June 26, 1956) to read as follows:

§ 78.312 *Specification ICC–112A400–W; fushion-welded steel tanks to be mounted on or forming part of a car.* (a) Wherever the word "approved" is used in this specification it means approval by the Association of American Railroads Com-

mittee on Tank Cars as prescribed in § 78.259 (a), (b), (c), and (d).

§ 78.312–1 *Type.* (a) Tanks built under this specification must be cylindrical with heads designed convex outward. The tank must be provided with manway nozzle and cover on top of the tank of sufficient diameter to permit access to the interior of the tank and to provide for the proper mounting of venting, loading, unloading, sampling and safety valves, gauging device, thermometer well, and a protective housing on the cover. Other openings in the tank are prohibited.

§ 78.312–2 *Lagging.* (a) Not a specification requirement.

(b) In lieu of lagging, at least the upper ⅔ of the exterior of the tank car tank shall be painted with a light-reflective paint for the finish coat. Manway nozzle, and all appurtenances in contact with this area of the tank shall also be painted with a light-reflective paint for the finish coat.

§ 78.312–3 *Bursting pressure.* (a) The calculated bursting pressure, based on the lowest tensile strength of the plate and the efficiency of the longitudinal welded joint, must be at least 1000 pounds per square inch.

§ 78.312–4 *Thickness of plates.* (a) The wall thickness in the cylindrical portion of the tank and tank heads must be calculated by the following formula, but in no case shall the wall thickness be less than that specified in § 78.312–4 (b):

$$t=\frac{Pd}{2SE}$$

where t=thickness in inches of thinnest plate; P=calculated bursting pressure in pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch; E=efficiency of longitudinal welded joint=90 percent.

(b) The minimum thickness of plates must be 11/16 inch.

(c) The minimum thickness of clad plates, where cladding material has physical properties at least equal to that of the base plate prescribed in § 78.312–6 (a), must be as prescribed in § 78.312–4 (b). Where the cladding material does not have physical properties at least equal to that of the base plate prescribed in § 78.312–6 (a) minimum thickness of base plate must be as prescribed in § 78.312–4 (b).

§ 78.312–5 *Manway nozzle opening.* (a) Opening in tank for manway nozzle must be reinforced in an approved manner.

§ 78.312–6 *Material.* (a) All plates for tank and manway nozzle must be made of open-hearth boiler-plate flange or firebox quality steel to an approved specification, the carbon content of which shall not exceed 0.31 percent. These plates may also be clad with other metals, such as nickel.

(b) All castings used for fittings or attachments to tank must be made of material to an approved specification. The use of cast iron is prohibited.

(c) All external projections must be made of material specified herein.

§ 78.312–7 *Tank heads.* (a) The tank head shape shall be an ellipsoid of revolution in which the major axis shall equal the diameter of the shell and the minor axis shall be one-half the major axis.

§ 78.312–8 *Welding.* (a) All joints must be fusion-welded by a process which investigation and laboratory tests by the Mechanical Division of the Association of American Railroads have proved will produce satisfactory results. Fusion-welding to be performed by fabricators certified by the Association of American Railroads as qualified to meet the requirements of this specification. All joints must be fabricated by means of fusion-welding in accordance with the requirements of A. A. R. Welding Code, Appendix W.

§ 78.312–9 *Stress-relieving.* (a) All welding of the tank shell and of attachments welded directly thereto, must be stress-relieved as a unit.

§ 78.312–10 *Tank mounting.* (a) The manner in which the tank is supported on and securely attached to the car structure must be approved.

(b) The use of rivets as a means of securing the anchor to tank is prohibited.

§ 78.312–11 *Manway nozzle, cover and protective housing.* (a) Manway nozzle must be of forged or rolled steel at least 18 inches inside diameter. Manway nozzle must be of approved design and attached to tank by fusion-welding. Fusion-welding for securing this attachment in place must be of the double-welded butt joint type or double full-fillet lap joint type.

(b) Manway cover must be of forged or rolled steel at least 2¼ inches thick, machined to approved dimensions. Manway cover must be attached to manway nozzle by through or stud bolts not entering tank.

(c) The shearing value of the bolts attaching protective housing to manway cover must not exceed 70 percent of shearing value of bolts attaching manway cover to manway nozzle.

(d) All joints between manway cover and manway nozzle, and between manway cover and valves or other appurtenances mounted thereon, must be made tight against vapor pressure.

(e) Protective housing of cast or fabricated steel must be bolted to manway cover. Housing must be equipped with a suitable metal cover that can be securely closed. Housing cover on tanks used for the transportation of liquefied flammable gases must be provided with an opening equipped with an approved weather proof covering and having an area at least equal to the total safety valve discharge area. Housing cover must have suitable stop to prevent cover striking loading and unloading connections and be hinged on one side only with approved riveted pin or rod with nuts and cotters. Opening in wall of housing must be equipped with screw plugs or other closures.

§ 78.312–12 *Venting, loading and unloading valves, gauging and sampling device and thermometer well.* (a) Venting, loading and unloading valves must be of approved type, made of metal not subject to rapid deterioration by lading, and must withstand a pressure of 400 pounds per square inch without leakage. The valves must be directly bolted to seatings on manway cover. Pipe connections of valves must be closed with approved screw plugs chained or otherwise fastened to prevent misplacement.

(b) The interior pipes of the loading and unloading valves, except as prescribed in § 78.312–12 (d), may be equipped with excess flow valves of approved design.

(c) Gauging device, sampling valve and thermometer well are not specification requirements. When used, they must be of approved design, made of metal not subject to rapid deterioration by lading, and must withstand a pressure of 400 pounds per square inch without leakage. Interior pipes of the gauging device and sampling valve, except as prescribed in § 78.312–12 (d), may be equipped with excess flow valves of an approved design. Interior pipes of thermometer well must be anchored in an approved manner to prevent breakage due to vibration. The thermometer well must be closed by an approved valve attached close to the manway cover and closed by a screw plug. Other approved arrangements that permit testing thermometer well for leaks without complete removal of the closure, may be used.

(d) Tanks used in the transportation of liquefied flammable gases must have the interior pipes of the loading and unloading valves, gauging device and sampling valve equipped with excess flow valves of an approved design.

§ 78.312–13 *Safety valves.* (a) The tank must be equipped with one or more safety valves of an approved design, made of metal not subject to rapid deterioration by lading and mounted on manway cover. The total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 330 pounds per square inch.

(b) The safety valve must be set for a start-to-discharge pressure of 300 pounds per square inch. (For tolerance see § 78.312–17 (a)).

§ 78.312–14 *Fixtures, reinforcements, and attachments not otherwise specified.* (a) Attachments, other than the anchorage, interior pipe bracing, and those mounted on manway cover, are prohibited.

§ 78.312–15 *Closures for openings.* (a) Plugs must be of approved type, with standard pipe thread and of metal not subject to rapid deterioration by lading.

§ 78.312–16 *Tests of tanks.* (a) Each tank must be tested, after anchorage is applied, by completely filling tank and manway nozzle with water, or other liquid of similar viscosity, having a temperature which must not exceed 100 degrees Fahrenheit during test, and applying a pressure of 400 pounds per square inch. The tank must hold the prescribed pressure for at least 10 minutes without leakage or evidence of distress.

(b) Calking of welded joints to stop leaks developed during the foregoing tests is prohibited. Repairs in welded joints must be made as prescribed in § 78.312–8 (a).

§ 78.312–17 *Tests of safety valves.* (a) Each valve must be tested by air or gas before being put into service. The valve must start to discharge at a pressure of 300 pounds per square inch and be vapor tight at 240 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination. The valve must start to discharge at the pressure prescribed in § 78.312–13 (b) with a tolerance of plus or minus 3 percent.

§ 78.312–18 *Marking.* (a) Each tank must be marked, thus certifying that the tank complies with all the requirements of this specification. These marks must be as follows:

(1) ICC–112A400–W in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. If tanks are fabricated from ASTM A–212 Grade A or B steel, the specification number of the material must also be stamped in letters and figures at least ⅜ inch high into the metal near the center of both outside heads of the tank by the tank builder. ICC–112A400–W must also be stenciled on the tank in letters and figures at least 2 inches high by the party assembling the completed car.

(2) Initials of tank builder and date of original test of tank in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (1) of this paragraph.

(3) Initials of company and date of additional tests performed by the party assembling the completed car, in those cases where the tank builder does not complete the fabrication of tank, in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (2) of this paragraph by the party assembling the completed car. These marks must be stenciled on the tank in letters and figures at least 2 inches high immediately below the stenciled mark specified in subparagraph (1) of this paragraph, by the party assembling the completed car.

(4) Date on which the tank was last tested, pressure to which tested, place where test was made and by whom, stenciled on the tank.

(5) Date on which the safety valves were last tested, pressure to which tested, place where test was made, and by whom stenciled on the tank.

(6) Water capacity in pounds stamped plainly and permanently in letters and figures at least ⅜ inch high into the metal of the tank immediately below the mark specified in subparagraphs (2) and (3) of this paragraph. This mark must also be stenciled on the tank immediately below the dome platform, and either directly behind or within 3 feet of the right or left side of ladder, if there is a ladder on each side of the tank, in letters and figures at least 2 inches high as follows:

WATER CAPACITY
000000 POUNDS

(7) When a tank car and its appurtenances are designed and authorized for the transportation of a particular commodity only, the name of that commodity followed by the word "only", or such other wording as may be required to indicate the limits of usage of the car, must be stenciled on each side of the tank in letters at least 1 inch high, immediately above the stenciled mark specified in subparagraph (1) of this paragraph.

(8) Tanks made of clad plates must be stenciled on the tank (naming material) _____ clad tank. Lined tanks must be stenciled on the tank (naming material) _____ lined tank. These marks must be stenciled in letters at least 2 inches high, immediately above the stenciled mark specified in subparagraph (7) of this paragraph.

§ 78.312–19 *Reports.* (a) Before a tank car is placed in service, the party assembling the completed car must furnish to the car owner, Bureau of Explosives, and the Secretary, Mechanical Division, Association of American Railroads, a report in approved form certifying that that the tank and its equipment comply with all the requirements of this specification. In case of welded repairs to, alterations of, or additions to tanks or equipment from original design and construction, all of which must be approved, there must be furnished to the same parties a report in detail of the welded repairs, alterations or additions made to each tank covered by a particular application, showing the initials and number of each tank involved. Reports of retests must be rendered to the Bureau of Explosives and car owner.

33. Add § 78.314 (21 F. R. 4628, June 26, 1956) to read as follows:

§ 78.314 *Specification ICC–109A300–AL–W; fusion-welded aluminum tanks to be mounted on or forming part of a car.* (a) Wherever the word "approved" is used in this specification it means approval by the Association of American Railroads Committee on Tank Cars as prescribed in § 78.259 (a), (b), (c) and (d).

§ 78.314–1 *Type.* (a) Tanks built under this specification must be cylindrical with heads designed convex outward. The tank must be provided with a manway nozzle and cover on top of the tank of sufficient diameter to permit access to the interior of the tank and to provide for the proper mounting of venting, loading, unloading, sampling and safety valves, gauging device, thermometer well and a protective housing on the cover.

§ 78.314–2 *Lagging.* (a) Not a specification requirement. If applied, the tank shell and manway nozzle must be lagged with an approved insulation material. The entire insulation must be covered with a metal jacket not less than ⅛ inch in thickness and efficiently flashed around all around all openings so as to be weather tight.

(b) Before lagging is applied, the tank surface and the inside surface of the metal jacket shall be given a protective coating.

§ 78.314–3 *Bursting pressure.* (a) The calculated bursting pressure, based on the lowest tensile strength of the plate and the efficiency of the longitudinal welded joint, must be at least 750 pounds per square inch.

§ 78.314–4 *Thickness of plates.* (a) The wall thickness in the cylindrical portion of the tank must be calculated by the following formula:

$$t=\frac{Pd}{2SE}$$

where t=thickness in inches of thinnest plate; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch as follows:

ASTM B–178 Alloy GR20A=25,000 psi.
ASTM B–178 Alloy GS11A=24,000 psi.
ASTM B–178 Alloy GR40A=30,000 psi.

E=efficiency of longitudinal welded joint=90 percent.

(b) The minimum width of bottom sheet of tank must be 60 inches measured on the arc, but in all cases the width must be sufficient to bring the entire width of the longitudinal welded joint, including welds, above the cradle.

(c) The thickness of an ellipsoidal head (see § 78.314–7 (b)), shall be determined by the following formula:

$$t=\frac{Pd}{2SE}$$

where t=thickness of plate in inches; P=calculated bursting pressure pounds per square inch; d=inside diameter in inches; S=minimum ultimate tensile strength in pounds per square inch (see § 78.314–4 (a)); E=efficiency of welded joint to shell=100 percent.

(d) The minimum thickness of plates and heads must not be less than ⅝ inch.

§ 78.314–5 *Manway nozzle opening.* (a) Opening in tank for manway nozzle must be reinforced in an approved manner.

§ 78.314–6 *Material.* (a) All plates for tank and manway nozzle must be made of an aluminum alloy to an approved specification and be suitable for fusion-welding and not subject to rapid deterioration by the lading.

(b) Aluminum alloy castings used for fittings or attachment to tank must be made of material to an approved specification.

(c) All external projections which may be in contact with the lading must be made of material specified herein.

§ 78.314–7 *Tank heads.* (a) Tank heads must be of approved contour and must be ellipsoidal for pressure on concave side.

(b) Ellipsoidal tank heads shall be an ellipsoid of revolution in which the major axis shall equal the diameter of the shell and the minor axis shall be ½ the major axis.

§ 78.314–8 *Welding.* (a) All joints must be fusion-welded by a process which investigation and laboratory tests by the Mechanical Division of the Association of American Railroads have proved will produce satisfactory results. Fusion-welding to be performed by fabricators certified by Association of

American Railroads as qualified to meet the requirements of this specification. All joints must be fabricated by means of fusion-welding in accordance with the requirements of A. A. R. Welding Code, Appendix W.

§ 78.314–9 *Stress-relieving.* (a) Not a specification requirement.

§ 78.314–10 *Tank mounting.* (a) The manner in which the tank is supported on and securely attached to the car structure must be approved.

(b) The use of rivets as a means of securing anchor to the tank is prohibited.

§ 78.314–11 *Manway nozzle, cover and protective housing.* (a) Manway nozzle must be of cast, forged or fabricated aluminum alloy at least 18 inches inside diameter. Manway nozzle must be of an approved design and attached to tank by fusion-welding. Fusion-welding for securing this attachment in place must be of the double-welded butt joint type or double full-fillet lap joint type.

(b) Manway cover must be of forged or rolled aluminum alloy at least 2⅝ inches thick, or other approved material at least 2¼ inches thick, machined to approved dimensions. Manyway cover must be attached to nozzle by through bolts not entering tank.

(c) The shearing value of the bolts attaching protective housing to manway cover must not exceed 70 percent of shearing value of bolts attaching manway cover to manway nozzle.

(d) All joints between manway cover and manway nozzle, and between manway cover and valves or other appurtenances mounted thereon, must be made tight against vapor pressure.

(e) Protective housing of cast or fabricated steel, or other approved materials, must be bolted to manway cover. Housing must be equipped with a suitable metal cover that can be securely closed. Housing cover must have suitable stop to prevent cover striking loading or unloading connections and be hinged on one side only with approved riveted pin or rod with nuts and cotters. Opening in wall of housing must be equipped with screw plugs or other closures.

§ 78.314–12 *Venting, loading and unloading, gauging and sampling devices.* (a) Venting, loading and unloading valves must be of approved types, made of metal not subject to rapid deterioration by the lading, and must withstand a pressure of 300 pounds per square inch without leakage. The valves must be directly bolted to seatings on manway cover. Pipe connections of valves must be closed with approved screw plugs chained or otherwise fastened to prevent misplacement.

(b) Interior pipes of the loading and unloading valves, sampling valve and gauging device may be equipped with excess flow valves of an approved design.

(c) Gauging device, sampling valve and thermometer well are not specification requirements. When used, they must be of approved design, made of metal not subject to rapid deterioration by the lading, and must withstand a pressure of 300 pounds per square inch without leakage. Interior pipe of thermometer well must be anchored in an approved manner to prevent breakage due to vibration. The thermometer well must be closed by an approved valve attached close to the manway cover and closed by a screw plug. Other approved arrangements that permit testing thermometer well for leaks without complete removal of the closure may be used.

§ 78.314–13 *Bottom outlets.* (a) Bottom outlet for discharge of lading is prohibited, but tank may be equipped with a bottom washout of metal not subject to rapid deterioration by the lading, which must be of approved construction complying with the following requirements:

(1) The extreme projection of the bottom washout must be at least 12 inches above top of rail.

(2) Bottom washout nozzle must be of cast, forged or fabricated metal of good weldable quality in conjunction with the metal of the tank, and must be applied by welding.

(3) The bottom washout must be designed and constructed with a double closure each capable of withstanding 300 pounds per square inch test pressure without leakage. The inside or top closure must be such that loss of lading will not occur should the nozzle be broken, and preferably should consist of a plug with a tapered seat so that any tank pressure will effect tight closure independent of means of securing the plug. The outside or bottom closure must be a flange with a test plug not larger than ¾ inch pipe plug. Flange and plug must be chained to prevent loss.

(4) For bottom washout nozzles that project 6 inches or more from shell of tank, a "V" groove must be cut (not cast) in the upper part of the bottom washout nozzle at a point immediately below the lowest part of inside closure seat to a depth that will leave thickness of nozzle wall at the root of the "V" not over ⅜ inch. Where bottom washout nozzle is not a single piece, arrangement must be made to provide the equivalent of the breakage groove.

(5) The opening in the tank bottom for the bottom washout nozzle must be reinforced in an approved manner, and the washout nozzle must be of a thickness to insure that accidental breakage will occur at or below the "V" groove.

(6) The closure plug must not project below the "V" groove in the washout nozzle. The closure plug and seat must be readily accessible for repairs, including grinding.

(7) Joints between closures and their seats may be gasketed with suitable material.

§ 78.314–14 *Safety valves.* (a) The tank must be equipped with one or more safety valves of approved design, made of metal not subject to rapid deterioration by lading and mounted on manway cover. The total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 247.5 pounds per square inch.

(b) The safety valves must be set for a start to discharge pressure of 225 pounds per square inch. (For tolerance see § 78.314–18 (a).)

§ 78.314–15 *Fixtures, reinforcements and attachments not otherwise specified.* (a) All attachments to tank and nozzle must be applied by approved means. Heater systems may be applied to exterior of tank by tank bands or other approved methods.

§ 78.314–16 *Closures for openings.* (a) Plugs must be of approved type, with standard pipe thread, and of metal not subject to rapid deterioration by the lading.

§ 78.314–17 *Tests of tanks.* (a) Each tank must be tested, after anchorage is applied and before tank lagging is applied, by completely filling tank and manway nozzle with water or other liquid of similar viscosity, having a temperature which must not exceed 100 degrees Fahrenheit during test, and applying pressure of 300 pounds per square inch. The tank must hold the prescribed pressure for at least 30 minutes without leakage or evidence of distress.

(b) Calking of welded joints to stop leaks developed during the foregoing tests is prohibited. Repairs in welded joints must be made as prescribed in § 78.314–8 (a).

(c) Tests of exterior heater systems are not a specification requirement.

§ 78.314–18 *Tests of safety valves.* (a) Each valve must be tested by air or gas before being put into service. The valve must start to discharge at a pressure of 225 pounds per square inch and be vapor tight at 180 pounds per square inch, which limiting pressures must not be affected by any auxiliary closure or other combination. The valve must start to discharge at the pressure prescribed in § 78.314–14 (b) with a tolerance of plus or minus 3 percent.

§ 78.314–19 *Marking.* (a) Each tank must be marked, thus certifying that the tank complies with all the requirements of this specification. These marks must be as follows:

(1) ICC–109A300AL–W and specification number of material used in tank shell and manway nozzle in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal near the center of both outside heads of the tank by the tank builder. ICC–109A300AL–W must also be stenciled on the tank, or jacket if lagged, in letters and figures at least 2 inches high by the party assembling the completed car.

(2) Initials of tank builder and date of original test of tank in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (1) of this paragraph.

(3) Initials of company and date of additional tests performed by the party, assembling the completed car, in those cases where the tank builder does not complete the fabrication of tank, in letters and figures at least ⅜ inch high stamped plainly and permanently into the metal immediately below the stamped marks specified in subparagraph (2) of this paragraph by the party assembling

the completed car. These marks must also be stenciled on the tank, or jacket if lagged, in letters and figures at least 2 inches high immediately below the stenciled mark specified in subparagraph (1) of this paragraph by the party assembling the completed car.

(4) Date on which the tank was last tested, pressure to which tested, place where test was made and by whom, stenciled on the tank, or jacket if lagged.

(5) Date on which the safety valves were last tested, pressure to which tested, place where test was made and by whom, stenciled on the tank, or jacket if lagged.

(6) When a tank car and its appurtenances are designed and authorized for the transportation of a particular commodity only, the name of that commodity followed by the word "only", or such other wording as may be required to indicate the limits of usage of the car, must be stenciled on each side of the tank, or jacket if lagged, in letters at least 1 inch high, immediately above the stenciled mark specified in subparagraph (1) of this paragraph.

(7) Water capacity of the tank in pounds stamped plainly and permanently in letters and figures at least 3/8 inch high into the metal of the tank immediately below the mark specified in subparagraph (3) of this paragraph. This mark must also be stenciled on the tank, or jacket if lagged, immediately below the dome platform and either directly behind or within 3 feet of the right or left side of the ladder on each side of the tank, in letters and figures at least 2 inches high as follows:

WATER CAPACITY
000000 POUNDS

§ 78.314–20 *Reports.* (a) Before a tank car is placed in service the party assembling the completed car must furnish to car owner, Bureau of Explosives, and the Secretary, Mechanical Division, Association of American Railroads, a report in approved form certifying that the tank and its equipment comply with all the requirements of this specification. In case of welded repairs to, alterations of, or additions to tanks or equipment from original design and construction, all of which must be approved, there must be furnished to the same parties, a report in detail of the welded repairs, alterations or additions made to each tank covered by a particular application, showing the initials and numbers of each tank involved. Reports of retests must be rendered to the Bureau of Explosives and car owner.

[F. R. Doc. 57–5523; Filed, July 8, 1957; 8:49 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

PART 204—DANGER ZONE REGULATIONS

PART 207—NAVIGATION REGULATIONS

MISCELLANEOUS AMENDMENTS

1. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U. S. C. 499), § 203.712 (d–1) governing the operation of the State of California Highway Bridge (Redwood Highway Bridge) across Richardson Bay near Sausalito, California, is hereby revoked, the bridge having been replaced by a fixed bridge, as follows:

§ 203.712 *Tributaries of San Francisco Bay and San Pablo Bay, Calif.* * * *

(d–1) *Richardson Bay; State of California Highway Bridge (Redwood Highway Bridge) near Sausalito.* [Revoked.]

[Regs., June 13, 1957, 823.01 (Richardson Bay, Calif.)—ENGWO] (Sec. 5, 28 Stat. 362; 33 U. S. C. 499)

2. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1), § 204.82a is hereby prescribed establishing and governing the use and navigation of an Air Force danger zone in the Atlantic Ocean off Cape Canaveral, Florida, as follows:

§ 204.82a *Atlantic Ocean off Cape Canaveral, Fla., Air Force Missile Testing Area, Patrick Air Force Base, Fla.*—(a) *The danger zone.* An area in the Atlantic Ocean immediately offshore from Cape Canaveral defined by the arc of a circle with radius of 5 statute miles with its center at Canaveral lighthouse, said arc beginning at a point on the shore approximately 5 miles north of said lighthouse, at approximate latitude 28°34′ north, and continuing thence in a clockwise direction to a point in Canaveral Bight approximately 5 miles due south of said lighthouse, at approximate latitude 28°23′ north, longitude 80°33′ west; and thence by a straight line in a direction approximately north 44 degrees west (approximately NW) to a point on the shore.

(b) *The regulations.* (1) All unauthorized vessels of every kind are prohibited from operating within the danger zone during firing periods to be specified by the Commander, Air Force Missile Test Center, Patrick Air Force Base.

(2) When firing activities are about to begin and while such activities are being conducted a warning signal in the form of a large red ball will be displayed by day and a cluster of flashing red lights by night on a tower at a point approximately one-half mile south of the point on the highwater shoreline where the northerly terminus of the said arc meets said shoreline; and on a tower at said shoreline at the southerly part of said area where the said straight line meets said shoreline, as described in paragraph (a) of this section. In addition, crash boats and airplanes, or either, will patrol the zone during prohibited hours and will give oral warning by loud speaker. When firing activities are about to begin the above-named using service will broadcast warning by radio on a frequency of 2638 kilocycles. The specified signals will be discontinued when the zone is again safe for surface craft to enter.

(3) During periods when the above-described signals are being displayed all vessels in the zone shall leave immediately by the shortest route, and shall remain outside the zone until the signals have been discontinued.

(4) The regulations in this section shall be enforced by the Commander, Air Force Missile Test Center, Patrick Air Force Base, Florida, and such agencies as he may designate.

[Regs., June 10, 1957, 800.2121 (Atlantic Ocean-Florida)—ENGWO] (Sec. 7, 40 Stat. 266; 33 U. S. C. 1)

3. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1), § 207.128a is hereby prescribed establishing and governing the use and navigation of a restricted area surrounding the two Naval piers in York River at Cheatham Annex Depot, Naval Supply Center, Williamsburg, Virginia, as follows:

§ 207.128a *York River adjacent to Cheatham Annex Depot, Naval Supply Center, Williamsburg, Virginia; restricted area*—(a) *The area.* The waters of York River bounded as follows: Beginning at a point on shore at Cheatham Annex Depot at latitude 37° 17′ 14″ N, longitude 76° 35′ 38″ W; thence to a point offshore at latitude 37° 17′ 52″ N, longitude 76° 35′ 20″ W; thence approximately parallel to the shore to a point at latitude 37° 17′ 23″ N, longitude 76° 34′ 39″ W; thence to the shore at latitude 37° 16′ 58″ N, longitude 76° 35′ 03″ W; and thence along the shore at Cheatham Annex Depot to the point of beginning.

(b) *The regulations.* (1) No loitering will be permitted within the area. Oystermen may work their own leaseholds or public bottom within the area, provided they obtain special permission from the Officer in Charge, Cheatham Annex Depot, Naval Supply Center, Williamsburg, Virginia.

(2) The regulations in this section shall be enforced by the Officer in Charge, Cheatham Annex Depot, U. S. Naval Supply Center, Williamsburg, Virginia.

[Regs., June 13, 1957, 800.2121 (York River, Va.)—ENGWO] (Sec. 7, 40 Stat. 266; 33 U. S. C. 1)

[SEAL] R. V. LEE,
Major General, U. S. Army,
Acting The Adjutant General.

[F. R. Doc. 57–5504; Filed, July 8, 1957; 8:45 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 4—DEPENDENTS AND BENEFICIARIES CLAIMS

WAR ORPHANS' EDUCATIONAL ASSISTANCE ACT OF 1956

Section 4.458a is revised to read as follows:

§ 4.458a *War Orphans' Educational Assistance Act of 1956.* (a) Election of benefits under Public Law 634, 84th Congress, is a bar in the same or any other case to further payments of dependency and indemnity compensation after age 18 because of approved school attendance. Dependency and indemnity compensation may be paid, however, for a child under the age of 18 years or for

a helpless child concurrently with benefits under the War Orphans' Educational Assistance Act of 1956. Election of benefits under Public Law 634, 84th Congress, is final after one payment has been made under that act to or for the child or as an administrative allowance to the school. Payment will be considered to have been made when the school has submitted a certification of the eligible person's enrollment and a certification of training, thereby establishing entitlement to payment of an administrative (the reporting) allowance for the certification rendered.

(b) Where a child over the age of 18 years elects benefits under this act, awards of dependency and indemnity compensation will be subject to the following:

(1) An election of benefits under this act will not preclude the allowance of dependency and indemnity compensation which is otherwise payable based upon school attendance for periods, including vacation periods, prior to commencement of benefits under such act.

(2) Dependency and indemnity compensation based on school attendance will be discontinued as provided in § 4.463 (d) (1).

(3) Apportionment, where death of the veteran occurred prior to January 1, 1957, will be discontinued effective the day preceding the commencement date of benefits under such act.

(4) Readjustment of the rate payable to another child or children will be made as provided in § 4.455 (a).

(5) Accrued dependency and indemnity compensation may be paid to the child as provided in § 4.482.

(Sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9; 38 U. S. C. 11a, 426, 707. Interprets or applies sec. 209, 70 Stat. 867; 38 U. S. C. 1119)

This regulation is effective July 9, 1957.

[SEAL] J. C. PALMER,
Assistant Deputy Administrator.

[F. R. Doc. 57-5521; Filed, July 8, 1957; 8:48 a. m.]

TITLE 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 20—SPECIAL REGULATIONS

MOUNT MCKINLEY NATIONAL PARK; SPEED LIMITS

Section 20.44, *Mount McKinley National Park,* is amended by adding paragraph (e) as follows:

(e) *Speed.* Speed limits in the Park are as provided in § 1.42 of this chapter, except that the maximum speed limit for vehicles having a gross weight in excess of 10,000 pounds is 25 miles per hour, and for all other vehicles is 35 miles per hour.

(Sec. 3, 39 Stat. 535, as amended; 16 U. S. C. 3)

Issued this 3d day of June 1957.

DUANE D. JACOBS,
Superintendent,
Mount McKinley National Park.

[F. R. Doc. 57-5508; Filed, July 8, 1957; 8:46 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Housing and Home Finance Agency

Subchapter B—Property Improvement Loans

PART 201—CLASS 1 AND CLASS 2 PROPERTY IMPROVEMENT LOANS

MISCELLANEOUS AMENDMENTS

1. In § 201.2, paragraph (e) is amended to read as follows:

§ 201.2 *Eligible notes.* * * *

(e) *Late charges.* The note may provide for a late charge, not to exceed 5 cents for each $1.00 of each installment more than 10 days in arrears. No late charge on a past due installment may be accrued in excess of $5.00. In lieu of late charges, notes may provide for interest on past due installments at a rate not in excess of the contract rate in the jurisdiction in which the note is drawn. The borrower must be billed for the penalties collected as such, and evidence of such billing must be in the file if claim is made under the Contract of Insurance.

2. Section 201.7 (a) (1) is amended by striking the item "Door opening and closing devices."

3. In § 201.7, paragraph (c) (1) is amended to read as follows:

§ 201.7 *Eligible improvements.* * * *

(c) *Commitments.* * * *

(1) The improvements financed are completed and the proceeds of the loan disbursed within 90 days after the determination by the Commissioner that the item, product, alteration, repair or improvement is no longer to be eligible for Title I financing, and

4. In § 201.13, paragraphs (a) and (b) are amended to read as follows:

§ 201.13 *Insurance charge*—(a) *Rate.* The insured shall pay to the Commissioner an insurance charge equal to fifty-five one-hundredths (0.55) of one percent per annum of the net proceeds of any eligible loan reported and acknowledged for insurance: *Provided,* That in the case of a Class 1 (b) loan in excess of $3,500, exclusive of financing charges, and in the case of a Class 2 (b) loan having a maturity in excess of 7 years and 32 days, such insurance charge shall be forty-five one-hundredths (0.45) of one percent per annum. In computing the insurance charge, no charge shall be made for the fractional period of a month of 14 days or less, and a charge for a full month shall be made for the fractional period of a month of more than 14 days.

(b) *When payable.* Such insurance charge for the entire term of the loan shall be paid within 25 days after the date the Commissioner acknowledges receipt to the insured institution of the report of loan: *Provided,* That on loans having a maturity in excess of 3 years and 32 days, such charge may be paid in installments, the first of which shall be equal to the charge for 3 years and be paid within said 25 days, and the second and succeeding installments, each equal to the charge for one year, shall be paid on the first and each succeeding anniversary of the first day of the month following the date of the note.

(Sec. 2, 48 Stat. 1246, as amended; 12 U. S. C. 1703)

Issued at Washington, D. C., July 3, 1957.

[SEAL] NORMAN P. MASON,
Federal Housing Commissioner.

[F. R. Doc. 57-5527; Filed, July 8, 1957; 8:49 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter F—Alaska Commercial Fisheries

PART 104—BRISTOL BAY AREA

NAKNEK-KVICHAK DISTRICT; ADDITIONAL FISHING TIME

Basis and purpose. On the basis of good showing of red salmon in the Naknek-Kvichak district of Bristol Bay, it has been determined that additional fishing time can be permitted.

Therefore, effective immediately upon publication in the FEDERAL REGISTER, § 104.5 is amended in paragraph (d) by adding the following: "and from 9 o'clock antemeridian to 9 o'clock postmeridian July 5, 1957."

Since immediate action is necessary, notice and public procedure on this amendment are impracticable (60 Stat. 237; 5 U. S. C. 1001 et seq.).

(Sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221)

SETON H. THOMPSON,
Acting Director,
Bureau of Commercial Fisheries.

[F. R. Doc. 57-5578; Filed, July 5, 1957; 2:53 p. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 916]

[Docket No. AO–247–A4]

MILK IN UPSTATE MICHIGAN MARKETING AREA

DECISION WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR 900), a public hearing was held at Traverse City, Michigan, on February 26–27, 1957, pursuant to notice thereof issued on February 6, 1957 (22 F. R. 843).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Deputy Administrator, Agricultural Marketing Service, on June 4, 1957 (22 F. R. 4021) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues on the record of the hearing related to:

1. Marketing area;
2. Type of pool, including, with respect to market-wide pooling;
   (a) Pool plant qualifications; and
   (b) Obligations of operators of nonpool plants distributing milk in the marketing area.
3. Accounting for inventories; and
4. Equivalent prices.

While the hearing notice included a proposed review of class prices of the order no specific testimony advocating a change in such prices was presented at the hearing. It is concluded that no price issue requiring decision was presented at the hearing.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Marketing area.* The marketing area should be expanded to include all of Wexford County. Missaukee and Roscommon Counties should not be added to the marketing area on the basis of this record. The marketing area should not be contracted by the elimination of Crawford County and the portion of Presque Isle County now included in the area.

The Upstate Michigan marketing area is presently defined to include eleven counties and portions of two others. A handler proposed the addition of Roscommon and Missaukee Counties and the remaining portion of Wexford County, of which three townships are now included in the order. An identical proposal was presented at a hearing held May 24, 1956. At the February hearing the proponent offered no testimony in support of the inclusion of Roscommon County. The evidence with respect to Missaukee County fails to show a substantial volume of sales in that county for handlers now regulated by the order. There is little information with respect to plants presently unregulated that distribute milk in Missaukee County. It is concluded that this record provides no basis for including this county in the marketing area.

With respect to marketing conditions in the portion of Wexford County not now in the defined area, the record is more specific. The city of Cadillac with a population approximately 10,000 is located in this area. One handler presently regulated by the Upstate Michigan order has approximately 40 percent of his sales in Cadillac. Another handler, whose plant is located in the portion of Wexford County now included in the area, sells a substantial portion of his milk in Cadillac and other parts of the county not now under regulation. A third regulated handler also sells in portions of the county. Two handlers whose plants are not now regulated, have their principal distribution in Wexford County. The larger of these plants is located in Cadillac, the other in the town of Manton. These handlers do not pay for their milk on a classified use basis, nor at the same price as regulated handlers. Instead they buy milk on base plans which have no relation to the use made of the milk. The record indicates that producers have little or no voice in establishing price or conditions of sale of their milk. These local handlers sell some milk in the presently defined area, but in amounts less than the 200 units daily within which they can maintain an exempt status.

Some milk processed and packaged at a plant in Grand Rapids is also sold in Cadillac. The record indicates that this is about 450 units daily so that addition of the remainder of Wexford County to the marketing area would bring the operator of this plant under the partial regulation provided elsewhere in this decision. It is concluded that the marketing area should include all of Wexford County rather than only the three presently defined townships. The competition between presently regulated handlers and local handlers for sales in the area indicates the need for uniform regulation of milk sold in Wexford County with those applicable in the remainder of the presently defined Upstate marketing area.

A milk dealer with plants in Saginaw and Bay City, who now distributes no milk in the Upstate Michigan area, requested that Crawford County and Presque Isle County (of which two townships are not now included) be eliminated from the marketing area, so that this distributor might sell milk in these areas without subjecting his entire operation to regulation. Handlers presently regulated doing business in these counties and the producers supplying them opposed this request, which was not included in the notice of hearing. This request appears to be in part an alternative to a proposal the same dealer made with respect to partial regulation under a market-wide pool. The provisions adopted elsewhere in this decision provide such an alternative. The request for reduction of the marketing area is denied.

2. *Type of pool.* The market-wide type of pool should be adopted as a means of distributing to producers the returns from the sale of milk.

The Upstate Michigan order first became fully effective November 1, 1955 and provided that returns to producers be distributed on the basis of individual handler pooling. This order was amended, effective March 1, 1956, four months after the first effective date. During this four-month period producers were arbitrarily dropped by handlers. The cooperative association representing a majority of producers became responsible for virtually all of the manufacturing milk because the cooperative association has always been obligated to market its members' entire production of milk. Handlers cooperating with the producers' association have received only the amount of milk needed, the association diverting excess supplies directly to manufacturing outlets. To alleviate the obviously disruptive practices to orderly marketing procedures the order was amended so as to provide for the sharing of returns among the regular and the "associated producers" at each handler's plant.

The "associated producer" provision has not brought about discontinuance of indiscriminate and arbitrary dropping of producers and undue burdening of the cooperative association with nearly all the excess milk. A market-wide pool will provide that each producer supplying the market will receive a return based on his pro rata share of the Class I sales of the entire market. Under the individual-handler pool, there has not been an equitable sharing among producers of the lower returns of the necessary volume of reserve milk to keep the market adequately supplied. This has been particularly true during the flush production season. This has resulted in market instability.

Handlers receiving the major portion of the milk supply in the Upstate Michigan marketing area are not equipped to handle large quantities of reserve milk. These handlers buy as closely as possible to their Class I needs and depend on additional supplies of milk to supplement receipts from producers. Under the present individual-handler pool, such plants, operating exclusively on a fluid milk basis, pay a higher blend price than plants which carry some reserve supply. Apparently a large number of handlers prefer to carry no reserve supply and thus prevent a lowering of their blend prices to producers. During November 1956, the qualifying month for the determination of associated producers, some dairy farmers failed to qualify under this section. This situation aggravated the problem of the cooperative association

in handling the supply of its members. Market-wide pooling should alleviate the situation wherein a producer may be denied a market, even though willing to produce and ship milk at the price being paid. It will, therefore, contribute to more orderly marketing of milk in this area. Since a handler will be able to accept all the milk of his producers, without depressing his producer pay price in relation to the prices paid by other handlers, a market-wide pool will facilitate the movement of milk supplies among handlers to meet their individual needs and tend to create a more equitable sharing among producers of the lower returns of the volume of reserve milk necessary to keep the market adequately supplied. This will result in greater market stability. The proponent cooperative association recognizes changes in the market supply conditions and the need to share Class I sales equally among all producers in order to maintain a stable market for producers whose milk is regularly needed each year.

Under a market-wide pool there will be no need to retain the "associated producer" provisions since producers whose milk is diverted from a pool plant to a nonpool plant for the account of a handler or cooperative association will share in the market-wide pool.

(a) *Pool plant qualifications.* Under a market-wide pool the returns from all Class I sales are shared uniformly by the producers supplying all fully regulated plants regardless of the volume of sales of the individual plant which such producers supply. In order that the benefits of the fluid milk sales of the market may accrue to the producers primarily engaged in supplying the fluid needs of the market, it is necessary to establish qualifications for plants whose inspected receipts are to be included in the market-wide pool. Otherwise the effects of the Class I price in providing an adequate and dependable supply of inspected milk for fluid needs of the market could be dissipated through pro rata sharing of the Class I utilization of the market with producers supplying milk plants not genuinely associated with the market.

Reasonable performance standards with respect to delivery of producer milk to the market should be required of plants among which Class I sales are to be equalized. Because of the difference in marketing functions between plants which are primarily in the business of distributing Class I milk and supply plants which furnish bulk milk to distributing plants, two sets of performance standards are appropriate.

The performance standards for distributing plants should apply only to plants primarily engaged in route distribution of Class I milk, as evidenced by route disposition of half of their receipts from qualified dairy farmers and from other pool plants during the month. Plants not primarily engaged in route distribution of Class I milk may qualify as supply plants.

In order to qualify as a pool plant, a distributing plant should distribute either in a volume which is significant in view of the normal sales of the Upstate Michigan marketing area or a significant percentage of its receipts from qualified dairy farmers. In the present marketing area Class I sales of approximately three million pounds per month are made by some 22 handlers. One hundred fifty thousand pounds per month, or 5 percent of total normal monthly Class I sales, approximates the average distribution per handler. Because a few handlers have distribution far greater than the average, the majority of Upstate Michigan handlers distribute less than 150,000 pounds of Class I milk in the marketing area. It is concluded that any distributing plant meeting the total route disposition requirement set forth above that disposes of 150,000 pounds or more of Class I milk in the marketing area during the month should be a pool plant. In addition, those plants with lesser distribution should have their receipts pooled if 20 percent or more of receipts from qualified dairy farmers are disposed of as Class I milk in the marketing area. Plants with less than 150,000 pounds per month Class I business in the area and that also dispose of more than 80 percent of their dairy farm supply outside the marketing area or in other outlets cannot be considered to be primarily engaged in supplying fluid needs of the Upstate Michigan market.

The order presently exempts from regulation (other than reporting and record keeping) a handler operating a plant from which distribution of Class I milk in the marketing area averages less than 200 points per day (approximates 12,000 to 13,000 pounds per month). In view of the size of the market and the provisions for partial regulation herein provided for nonpool distributing plants, it is appropriate that this limit be reduced to 100 points per day. Two plants presently operating under the exemption clause will become fully regulated through the enlargement of the marketing area.

No supply plant as such is presently regulated under the order, although one distributing plant does supply some smaller plants with bulk milk. Performance standards should be provided for supply plants so that any such plant which becomes a part of the regular market supply may appropriately have its receipts pooled. Any supply plant which ships 50 percent or more of its farm supply of milk to a pool distributing plant may be considered to have become fully associated with the market. The Upstate Michigan market regularly draws on other markets for supplemental milk in July and August, when sales increase sharply due to tourist trade. These months, and September through January, when production is seasonally shorter, represent the period for which there is the greatest likelihood of need for bulk milk shipments from supply plants. Any plant that qualified for pool status each month of the July–January period should be permitted to retain pool status through the following June if the operator so desires. These rules provide reasonable standards for qualification of supply plant under conditions prevailing in the area.

In order that pool plant qualifications may be expressed clearly and concisely, definitions of "route" and "qualified dairy farmer" are included in the order. "Route" is defined to include any delivery of a fluid milk (Class I) product, other than delivery in bulk to a milk processing plant, including delivery by vendors and sales from plants and plant stores. One plant presently supplies several smaller plants with milk packaged in paper cartons. For purposes of pool plant qualification, such milk will be included in the route deliveries of the plant at which the milk is processed and packaged. "Qualified dairy farmer" is defined to designate those persons who produce milk in conformity with the inspection requirements of the marketing area. Qualified dairy farmers whose milk is received at or diverted from pool plants are the producers whose milk is priced and pooled under the order.

(b) *Obligations of operators of nonpool distributing plant.* Under the pool plant qualifications set forth above certain plants may distribute milk in the marketing area without having their receipts priced and pooled as producer milk. Except for plants with minimum disposition of less than 100 points per day, provision must be made to prevent such plants from having competitive advantage over fully regulated plants whose milk receipts are priced under the order.

The operators of such nonpool plants must report receipts and utilization of milk in order that their pool status may be determined. Payments made to qualified dairy farmers are likewise available. If, through choice or competitive conditions, payments to such dairy farmers are equal to or greater than the value that the order would provide at class prices for the utilization of the plant, no additional payments are necessary under the circumstances prevailing in this area to protect fully regulated plants against competitive advantage to the nonpool handler through procurement of milk for less than the minimum prices they must pay. It was proposed that any deficit be assigned to procurement of milk for Class I purpose, and be prorated to sales in the Upstate Michigan marketing area. Such a proration, however, could result in some cases in the nonpool handler retaining a competitive advantage in competing with handlers fully regulated by the order, either within or without the marketing area. To avoid this, the full amount of the deficit should be used in computing the nonpool handler's obligation. The amount of any such deficit due the pool need not exceed the amount arrived at by multiplying hundredweight of Class I sales in the area by the difference between the Class I and Class III prices. No handler can be expected to procure milk acceptable for fluid use in the area for less than the Class III price. Such provisions will prevent competitive advantage to nonpool handlers and will recognize the payments that nonpool handlers make to the qualified dairy farmers who supply them.

In addition the nonpool handler should pay administrative assessment on the same basis as operators of pool plants if he is to receive credit for payments to dairy farmers in comparison with the use value of milk. Complete

verification of receipts, utilization and payments is required for this procedure. Pool handlers with substantial sales outside the marketing area are assessed on this basis. Should the handler elect, when filing his report, to make payment to the pool at the difference between the Class I and Class III prices with respect to sales in the marketing area, provision is made for expense of administration to be assessed with respect to such sales. Verification in this case can then be confined to the volume of such sales.

Somewhat similar provisions are included in the order for the nearby Muskegon market, and there was no opposition to the proposed use of provisions of this general character in the Upstate Michigan market. The record shows that one Grand Rapids plant will probably be subject to these provisions through disposition in the territory added to the marketing area; without the addition of such territory, one presently regulated plant would have failed to qualify as a pool plant. The operator of plants in Saginaw and Bay City indicated interest in entering the area on a basis to which these provisions would probably apply.

No proposals were made for any special pricing provisions to apply when pool plants receive other source milk in bulk form and such milk is allocated to Class I because the Class I utilization of the pool plant exceeds its receipts from producers and other pool plants. The pool qualifications established for supply plants make it somewhat less likely that regulation will be extended to the supply plant than is presently the case, so that any such receipts may more frequently be other source milk. Nevertheless it does not appear that under current marketing conditions there is need for special pricing provisions for other source milk allocated to Class I use in regulated plants. Should it develop that other source milk displaces producer milk for Class I use, corrective measures can be considered.

3. *Accounting for inventories.* Inventories of fluid milk products and cream must be taken into account in establishing the classification of producer milk. The present order makes no reference to inventories in the classification provisions. Inventories on hand at the end of the month should be classified in Class II. It would make no difference in costs to handlers or returns to producers under the provisions of the proposed order if inventory were handled in some other class: however, the accounting and reclassification procedure will be simplified by accounting for inventory in Class II milk. Inventory should be limited to stocks on hand of fluid milk products and cream, such as milk, skim milk and cream, which may be further processed or finally disposed of as Class I milk. Processed products in Class II and Class III milk should not be included in inventory since the milk used to produce such products will have been accounted for in the proper class when such products were made. Handlers, however, will need to maintain adequate records on the stocks of such products and make such reports as are required by the market administrator to verify their use by the handler and to facilitate the market administrator's auditing program.

Because inventories of fluid items are to be accounted for in Class II, as a temporary classification, it is necessary to provide a method for handling milk from inventory which is utilized in the current month for Class I purposes, but which the handler accounted for in Class II at the end of the preceding month. Handlers frequently use other source milk in their operations. The procedure for accounting for inventories should provide that producer milk from inventory should have prior claim on Class I milk over receipts of other source milk in the same manner as current receipts of producer milk. This should be accomplished through the accounting procedure by considering the opening inventory of a month as a receipt in the same month and subtracting such receipt (under allocation procedure), in series, starting with Class II milk, following the subtraction of other source milk. To the extent that the opening inventory is allocated to Class I and there was an equivalent amount of skim milk and butterfat in producer milk classified in Class II milk in the previous month (after allocating other source milk) a reclassification charge should be made at the difference between the Class II price in the previous month and the Class I price in the current month. Handled in this manner, milk from inventory will be priced to handlers identically with milk derived from current receipts of producer milk during the month. Other source milk from inventory would likewise be allocated to Class I milk under the same conditions as would current receipts of other source milk. These inventory provisions will result in equality of cost of milk among handlers and returns to producers without regard to whether or not such milk is from opening inventory or is a current receipt.

In order that the procedure of the order may be clear with respect to other inventory items such as any Class II or Class III processed products which may be reprocessed or converted to another product during the month, the definition of "other source milk" should be revised to include such products. This method of defining other source milk will clarify the application of the transfer and allocation provisions of the order so as to insure the intent of the order to allocate current receipts of producer milk to the highest valued class usage available at the pool plant(s) of the handler during the month.

4. *Equivalent price.* If for any reason a price quotation required by this order for computing class prices or for any other purpose is not available in the manner described, the market administrator should use a price determined by the Secretary of Agriculture to be equivalent to the price which is required. Experience has shown that market quotations provided in the order may not be available or may be discontinued. It is concluded that provision for such contingencies should be made by providing a determination by the Secretary of Agriculture a price(s) equivalent to such quotations or prices that may be no longer available.

General findings. (a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Upstate Michigan Marketing Area", and "Order Regulating the Handling of Milk in the Upstate Michigan Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Referendum order; determination of representative period; and determination of referendum agent. It is hereby directed that a referendum be conducted to determine whether the issuance of the attached order amending the order regulating the handling of milk in the Upstate Michigan marketing area, is approved or favored by the producers, as defined under the terms of the order, as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of March 1957 is hereby determined to be the representative

period for the conduct of such referendum.

William W. Meyers is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders, as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 15th day from the date this decision is issued.

Issued at Washington, D. C., this 3d day of July 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

Order[1] Amending the Order Regulating the Handling of Milk in the Upstate Michigan Marketing Area

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AUTHORITY: §§ 916.0 to 916.101 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c.

§ 916.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Upstate Michigan marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk, as determined pursuant to section 2 of the act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundredweight or such amount not to exceed 5 cents per hundredweight as the Secretary may prescribe with respect (a) to all receipts within the month of milk from producers, including milk of such handlers' own production, (b) to any other source milk allocated to Class I pursuant to §§ 916.46 and 916.47, and (c) the applicable amount specified in § 916.84 (a) (2) or (b) (2).

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Upstate Michigan marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended to read as follows:

DEFINITIONS

§ 916.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C., 601 et seq.).

§ 916.2 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ 916.3 *U. S. D. A.* "U. S. D. A." means the United States Department of Agriculture.

§ 916.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 916.5 *Upstate Michigan marketing area.* "Upstate Michigan marketing area", hereinafter referred to as the "marketing area" means all of the territory, including all municipal corporations, within: the counties of Manistee, Benzie, Grand Traverse, Kalkaska, Crawford, Leelanau, Antrim, Otsego, Charlevoix, Emmett, Cheboygan, and Wexford; Presque Isle County except for the civil townships of Krakow and Presque Isle; all in the State of Michigan.

§ 916.6 *Distributing plant.* "Distributing plant" means all the premises, buildings, and facilities of any milk processing or packaging plant from which any fluid milk product is disposed of during the month on a route in the marketing area.

§ 916.7 *Supply plant.* "Supply plant" means all the premises, buildings, and

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders have been met.

facilities of any milk receiving plant from which milk or skim milk conforming to the sanitation requirements of any duly constituted health authority relating to milk for consumption in the marketing area in the form of fluid milk products is moved during the month to a distributing plant.

§ 916.8 *Pool plant.* "Pool plant" means:

(a) A distributing plant other than that of a producer-handler, or one described in § 916.82 or § 916.83, from which during the month:

(1) Disposition of fluid milk products on routes in the marketing area equals or exceeds the smaller of:

(i) Twenty percent of such plant's receipts from qualified dairy farmers, or

(ii) 150,000 pounds; and

(2) Total disposition of fluid milk products on routes during the month equals or exceeds 50 percent of receipts of fluid milk products from qualified dairy farmers and supply plants.

(b) A supply plant from which during the month 50 percent or more of receipts from qualified dairy farmers is moved to a pool distributing plant. Any supply plant that was a pool plant during each of the months of July through January immediately preceding shall continue as a pool plant for each of the following months of February through June unless written request to the contrary is filed with the market administrator on or before the first day of such month.

§ 916.9 *Handler.* "Handler" means:

(a) The operator of a pool plant(s) in his capacity as such;

(b) The operator of any nonpool distributing plant; or

(c) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant.

§ 916.10 *Qualified dairy farmer.* "Qualified dairy farmer" means a person, other than a producer-handler, who produces milk in conformity with the sanitation requirements of any duly constituted health authority relating to milk for consumption in the marketing area in the form of a fluid milk product.

§ 916.11 *Producer.* "Producer" means any qualified dairy farmer whose milk is received directly from the farm at a pool plant or is diverted from a pool plant for the account of a handler or a cooperative association. Milk so diverted for the account of the operator of a pool plant shall be deemed to have been received at the pool plant from which diverted.

§ 916.12 *Producer-handler.* "Producer-handler" means a person who is a handler and who produces milk, but received no milk from other producers.

§ 916.13 *Producer milk.* "Producer milk" means milk delivered by one or more producers.

§ 916.14 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month of fluid milk products and cream, except (1) receipts from pool plants, or (2) producer milk; and

(b) Products, other than fluid milk products or cream, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 916.15 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers, duly organized as such under the laws of any State, which the Secretary determines:

(a) To be qualified under the standards set forth in the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act;"

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales or marketing milk or its products for its members.

§ 916.16 *Fluid milk product.* "Fluid milk product" means milk, flavored milk, skim milk, buttermilk, half-and-half, or other mixtures of cream and milk containing less than 18 percent butterfat.

§ 916.17 *Route.* "Route" means a delivery (including delivery by a vendor, or sale from a plant or plant store) of any fluid milk product, other than a delivery in bulk form to any milk processing plant.

MARKET ADMINISTRATOR

§ 916.20 *Designation.* The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal by, the Secretary.

§ 916.21 *Powers.* The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 916.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay, out of the funds provided by § 916.74;

(1) The cost of his bond and of the bonds of his employees,

(2) His own compensation, and

(3) All other expenses, except those incurred under § 916.75, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided in this part, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 916.30 through 916.33, or (2) payments pursuant to §§ 916.70, 916.72, 916.74, and 916.75;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(h) Audit records of all handlers to verify the reports and payments required pursuant to the provisions of this part; and

(i) Publicly announce the prices determined for each month as follows:

(1) On or before the 5th day of each month, the minimum class prices for the preceding month computed pursuant to § 916.51, and the handler butterfat differential computed pursuant to § 916.52; and

(2) On or before the 12th day of each month the uniform price for the preceding month, computed pursuant to § 916.61, and the producer butterfat differential computed pursuant to § 916.62.

REPORTS, RECORDS, AND FACILITIES

§ 916.30 *Monthly reports of receipts and utilization.* On or before the 5th working day of each month, each handler operating a pool plant(s), each cooperative association that is a handler pursuant to § 916.9 (c), and, except as otherwise provided in §§ 916.32 and 916.33, each handler operating a nonpool distributing plant, shall report to the market administrator for the preceding month, in the detail and on forms prescribed by the market administrator, the following with respect to (a) all producer milk received (in lieu thereof milk received from qualified dairy farmers at a nonpool distributing plant), (b) all skim milk and butterfat in the form of fluid milk products or cream received from pool plants of other handlers, and (c) all other source milk:

(1) The quantities of butterfat and skim milk contained in such receipts, and their sources;

(2) The utilization or disposition of such receipts; and

(3) Such other information with respect to such receipts and their utilization or disposition as the market administrator may prescribe.

§ 916.31 *Payroll reports.* On or before the 20th day of each month each handler who received milk from producers or qualified dairy farmers shall report his producer payroll for the preceding month which shall show:

(a) The pounds of milk received from each producer or qualified dairy farmer and the percentage of butterfat contained therein;

(b) The amount and date of payment to each producer or qualified dairy farmer or to a cooperative association; and

(c) The nature and amount of each deduction or charge involved in the payments referred to in paragraph (b) of this section.

§ 916.32 *Producer-handler reports.* Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall prescribe.

§ 916.33 *Exempt handler reports.* Each handler exempt pursuant to § 916.82 or § 916.83 shall report to the market administrator his disposition of fluid milk products on routes in the marketing area at such time and in such manner as the market administrator shall prescribe.

§ 916.34 *Records and facilities.* Each handler shall maintain and make available to the market administrator, during the usual hours of business, such accounts and records, of all of his operations and such facilities as are necessary to verify reports or to ascertain the correct information with respect to (a) the receipts and utilization or disposition of all skim milk and butterfat received, including all milk products received and disposed of in the same form, (b) the weights and tests for butterfat, skim milk and other contents of all milk and milk products handled, (c) inventories of all dairy products on hand at the beginning and end of each month, and (d) payments to producers and cooperative associations.

§ 916.35 *Retention of records.* All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That, if within such three-year period, the market administrator notifies a handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 916.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat required to be reported pursuant to § 916.30, shall be classified (separately as skim milk and butterfat) in the classes set forth in § 916.41.

§ 916.41 *Classes of utilization.* Subject to the conditions set forth in §§ 916.42 and 916.43, the classes of utilization shall be:

(a) Class I utilization shall be all skim milk and butterfat (1) disposed of for consumption in the form of fluid milk products; and (2) not accounted for as Class II or Class III utilization.

(b) Class II utilization shall be all skim milk and butterfat (1) used to produce any product other than those specified in paragraphs (a) or (c) of this section; (2) disposed of as fluid cream; (3) in shrinkage of producer milk up to 2 percent of receipts from producers; and (4) in fluid milk products and cream in inventory at the end of the month.

(c) Class III utilization shall be all skim milk and butterfat (1) used to produce butter, dry milk (either whole or nonfat) or cheese in any form except cottage cheese; (2) disposed of for livestock feed or skim milk dumped subject to prior notification to and inspection (at his discretion) by the market administrator; and (3) in shrinkage of other source milk.

§ 916.42 *Shrinkage.* (a) If producer milk is utilized in conjunction with other source milk, the shrinkage shall be allocated pro rata between the receipts of skim milk and butterfat in producer milk and other source milk.

(b) Producer milk transferred to the pool plant of another handler without first having been received for the purpose of weighing and testing in the transferor handler's plant shall be included in the receipts at the plant of the transferee handler for the purpose of computing his shrinkage and shall be excluded at the plant of the transferor handler in computing his shrinkage.

§ 916.43 *Transfers.* (a) Skim milk and butterfat disposed of from a pool plant to the pool plant of another handler in the form of milk or skim milk shall be Class I utilization, unless utilization in another class is indicated by both handlers in their reports submitted pursuant to § 916.30: *Provided,* That in no event shall the amount so classified in such class be greater than the amount of producer milk used in such class by the transferee handler after allocating other source milk in his plant in series beginning with the lowest priced utilization.

(b) Skim milk and butterfat moved in the form of milk or skim milk from a pool plant to a nonpool plant shall be Class I utilization unless all of the following conditions are met:

(1) Utilization in another class is indicated by the handler in his report submitted pursuant to § 916.30;

(2) The operator of the transferee plant had actually used in the month of such movement an equivalent amount of skim milk and butterfat in such class or moved such amount to another nonpool plant which meets the requirements of subparagraph (3) of this paragraph and utilized in the month an equivalent amount of skim milk and butterfat in such class;

(3) The operator of the transferee plant maintains books and records which are made available if requested by the market administrator and which are adequate for the verification of such utilization.

(c) Skim milk and butterfat disposed of from a fluid milk plant to a producer-handler shall be Class I utilization.

§ 916.44 *Responsibility of handlers.* All skim milk and butterfat shall be classified as Class I utilization unless the handler who first received such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

§ 916.45 *Computation of skim milk and butterfat in each class.* For each month the market administrator shall correct for mathematical and obvious errors the monthly report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I, and Class II and Class III utilization for such handler.

§ 916.46 *Allocation of butterfat classified.* The pounds of butterfat remaining after making the following computations shall be the pounds in each class allocated to milk received from producers:

(a) Subtract from the total pounds of butterfat in Class II utilization, the pounds of butterfat shrinkage allowed pursuant to § 916.41 (b) (3);

(b) Subtract from the pounds of butterfat remaining in each class the pounds of butterfat contained in milk or milk products received in packaged form which were classified and priced under another marketing agreement or order issued pursuant to the act and disposed of in the same form as received;

(c) Subtract from the pounds of butterfat remaining in each class, in series beginning with the lowest priced utilization, the pounds of butterfat remaining in other source milk;

(d) Subtract from the remaining pounds of butterfat in Class II and Class I, in series beginning with Class II, the pounds of butterfat in inventory of fluid milk products and cream on hand at the beginning of the month;

(e) Subtract from the remaining pounds of butterfat in each class, the pounds of butterfat received from other handlers in such classes pursuant to § 916.43 (a); and

(f) Add to the remaining pounds of butterfat in Class II utilization the pounds subtracted pursuant to paragraph (a) of this section;

(g) If the remaining pounds of butterfat in all classes exceed the pounds of butterfat in milk received from producers, subtract such excess from the remaining pounds of butterfat in each class, in series beginning with the lowest-priced utilization.

§ 916.47 *Allocation of skim milk classified.* Allocate the pounds of skim milk in each class to milk received from producers in a manner similar to that prescribed for butterfat in § 916.46.

§ 916.48 *Computation of total producer milk in each class.* The amounts computed pursuant to §§ 916.46 and 916.47 will be combined into one total for each class and the weighted average butterfat content of producer milk in each class will be determined.

MINIMUM PRICES

§ 916.50 *Basic formula price.* The basic formula price to be used in determining the price per hundredweight of Class I utilization shall be the highest of the prices computed pursuant to paragraphs (a), (b), and (c) of this section.

(a) The average of the basic or field prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the U. S. D. A.:

PRESENT OPERATOR AND LOCATION

Borden Co., Mount Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed by adding together the plus values computed pursuant to subparagraphs (1) and (2) of this paragraph:

(1) From the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the mid-point of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the U. S. D. A. during the month; substract 3 cents, add 20 percent thereof and multiply by 3.5.

(2) From the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the U. S. D. A., deduct 5.5 cents and then multiply by 8.2.

(c) The average of the basic or field prices per hundredweight reported to have been paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants:

Kraft Foods Co., Cadillac, Mich.
Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Kraft Foods Co., Clare, Mich.

§ 916.51 *Class prices.* Subject to the provisions of §§ 916.52 and 916.53 the prices per hundredweight to be paid by each handler, f. o. b. his pool plant for milk received from producers or from cooperative associations during the month, shall be as follows:

(a) *Class I milk.* Through June 30, 1958 the Class I milk price shall be the basic formula price plus $1.05 during the months of February through June and plus $1.45 during the months of July through January.

(b) *Class II milk.* The Class II milk price shall be the basic formula price.

(c) *Class III milk.* The Class III milk price shall be the basic formula price less 20 cents.

§ 916.52 *Handler butterfat differential.* There shall be added to or subtracted from, as the case may be, the prices of milk for each class as computed pursuant to § 916.51, for each one-tenth of one percent variation in the average butterfat test of the milk in each class above or below 3.5 percent an amount equal to the producer butterfat differential determined pursuant to § 916.62.

§ 916.53 *Handler location adjustments.* For milk which is received from producers at a pool plant located more than 90 miles but not more than 110 miles, by shortest highway distance, as determined by the market administrator, from the Court House in either Grayling or Manistee, whichever is closer, and utilized as Class I, the price shall be the price effective pursuant to § 916.51 (a), less 12 cents, and less 1 cent additional for each 20 miles or fraction thereof over 110 miles.

§ 916.54 *Use of equivalent price.* If for any reason a price quotation required by this order for computing class prices or for any other purpose is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

DETERMINATION OF PRICES TO PRODUCERS

§ 916.60 *Value of producer milk.* The value of producer milk received during the month by each handler at pool plants shall be computed by the market administrator as follows:

(a) Multiply the hundredweight of producer milk in each class pursuant to § 916.48 by the applicable respective class prices, adjusted pursuant to §§ 916.52 and 916.53, and add together the resulting amounts;

(b) Add the value of any excess utilization deducted from each class pursuant to § 916.46 (g) and the corresponding step of § 916.47 computed at the applicable class price; and

(c) Add the amount obtained through multiplying by the difference between the Class II price for the preceding month and the Class I price for the current month the lesser of:

(1) The hundredweight of milk subtracted from Class I pursuant to § 916.46 (d) and the corresponding step of § 916.47; or

(2) The hundredweight of producer milk classified as Class II milk (except as shrinkage) for the preceding month.

§ 916.61 *Computation of the uniform price.* For each month, the market administrator shall compute the uniform price per hundredweight for producer milk of 3.5 percent butterfat content delivered to pool plants (before location adjustment), as follows:

(a) Combine into one total the individual values of milk of all handlers computed pursuant to § 916.60;

(b) Add, if the weighted average butterfat test of all producer milk represented in paragraph (a) of this section is less than 3.5 percent, or subtract, if the weighted average butterfat test of such milk is more than 3.5 percent, an amount computed by multiplying the total pounds of butterfat represented by the difference of such average butterfat test from 3.5 percent by the butterfat differential provided in § 916.62 multiplied by 10;

(c) Add the aggregate of the values of the applicable producer location adjustments pursuant to § 916.63;

(d) Add not less than one half of the unobligated balance in the producer equalization fund;

(e) Divide the resulting amount by the hundredweight of milk received from producers; and

(f) Subtract not less than 6 cents nor more than 7 cents.

§ 916.62 *Producer butterfat differential.* In making payments pursuant to § 916.70, the uniform price shall be increased or decreased for each one-tenth of one percent of butterfat content in the milk received from each producer or a cooperative association above or below 3.5 percent, as the case may be, by a butterfat differential of 7 cents when the average price of butter as described in § 916.50 (b) (1) is 60 cents, which differential shall be increased one-half cent for each full 5 cents variance in such price of butter above 60 cents and decreased one-half cent for each full 5-cent variance in such price of butter below 64.99 cents.

§ 916.63 *Producer location adjustments.* In making payments to producers or cooperative associations pursuant to § 916.70 a handler may deduct, with respect to all milk received by him from producers at a pool plant located by shortest highway distance as determined by the market administrator, more than 90 miles from the Court Houses in both Grayling and Manistee the amount per hundredweight applicable to the pool plant as set forth in § 916.53.

§ 916.64 *Notification.* On or before the 12th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing for such month:

(a) The amount and value of his producer milk in each class;

(b) The uniform price computed pursuant to § 916.61 and the butterfat differential computed pursuant to § 916.62;

(c) The amount to be paid by such handler pursuant to §§ 916.70, 916.74, and 916.75; and

(d) The amount due such handler from the producer-equalization fund, or the amount to be paid by such handler to the producer-equalization fund, as the case may be.

PAYMENT FOR MILK

§ 916.70 *Time and method of payment.* (a) (1) Except as provided in paragraph (b) of this section, on or before the 15th day after the end of each month each handler who received milk from producers shall pay for milk received during such month to each producer for milk received from him the uniform price as provided in § 916.61

adjusted by the butterfat differential pursuant to § 916.62 and the location adjustment pursuant to § 916.63.

(2) If by such date a handler has not received full payment pursuant to § 916.73, he may reduce his total payments to all producers and cooperative associations uniformly by not more than the amount of reduction in payment from the market administrator; he shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b) (1) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, each handler shall pay to the cooperative association on or before the 15th day of each month, in lieu of payments pursuant to paragraph (a) of this section an amount equal to the gross sum due for all milk received from certified members, less amounts owing by each member-producer to the handler for supplies purchased from him on prior written order or as evidenced by a delivery ticket signed by the producer and submit to the cooperative association written information which shows for each such member-producer (i) the total pounds of milk received from him during the preceding month, (ii) the total pounds of butterfat contained in such milk, (iii) the number of days on which milk was received, and (iv) the amounts withheld by the handler in payment for supplies sold. The foregoing payment and submission of information shall be made with respect to milk of each producer whom the cooperative association certifies is a member, which is received on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association.

(2) A copy of each such request, promise to reimburse, and a certified list of members shall be filed simultaneously with the market administrator by the association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler shall be made by written notice to the market administrator, and shall be subject to his determination.

§ 916.71 *Producer-equalization fund.* The market administrator shall establish and maintain a separate fund, known as the "producer-equalization fund" into which he shall deposit all payments received pursuant to §§ 916.72 and 916.84 (including any adjustments thereto pursuant to § 916.76) and out of which he shall make all payments pursuant to § 916.73 (including any adjustments thereto pursuant to § 916.76).

§ 916.72 *Payments to the producer-equalization fund.* On or before the 13th day after the end of each month, each handler whose value of milk is required to be computed pursuant to § 916.60 shall pay to the market administrator any amount by which such value for such month is greater than the minimum amount required to be paid by him pursuant to § 916.70.

§ 916.73 *Payments out of the producer-equalization fund.* On or before the 14th day after the end of each month, the market administrator shall pay to each handler any amount by which the value of milk for such handler for the month pursuant to § 916.60 is less than the total minimum amount required to be paid by him pursuant to § 916.70, less any unpaid obligations of such handler to the market administrator pursuant to § 916.72: *Provided,* That if the balance in the producer-equalization fund is insufficient to make all payments to all such handlers pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necesary funds become available.

§ 916.74 *Expense of administration.* As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 13th day after the end of each month 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, with respect (a) to all receipts within the month of milk from producers, including milk of such handlers' own production, (b) to any other source milk allocated to Class I pursuant to §§ 916.46 and 916.47, and (c) the applicable amount specified in § 916.84 (a) (2) or (b) (2).

§ 916.75 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments pursuant to § 916.70 for milk received from each producer (including milk of such handler's own production) at a plant not operated by a cooperative association of which such producer is a member, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, and, on or before the 13th day after the end of each month, shall pay such deductions to the market administrator. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from producers and to provide producers with market information, such services to be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers whose milk is received at a plant not operated by a cooperative association of which such producers are members, and for whom a cooperative association is actually performing the services described in paragraph (a) of this section, as determined by the Secretary, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from payments required pursuant to § 916.70 as may be authorized by such producers, and pay such deductions on or before the 13th day after the end of the month to the cooperative association rendering such services of which such producers are members.

§ 916.76 *Errors in payments.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in moneys due:

(a) To the market administrator from such handler,

(b) To such handler from the market administrator, or

(c) To any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due: and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred, following the 5th day after such notice.

§ 916.77 *Overdue accounts.* Any unpaid obligation of a handler or of the market administrator pursuant to § 916.72 through § 916.76 shall be increased one-half of one percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

§ 916.78 *Termination of obligations.* (a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the market administrator receives the handler's report of utilization of the milk involved in such obligation, unless, within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producers or association, or, if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books or records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which such books and records pertaining to such obligation are

made available to the market administrator or his representative.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed or two years after the end of the month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

APPLICATION OF PROVISIONS

§ 916.80 *Milk caused to be delivered by cooperative associations.* Milk referred to in this part as received from producers by a handler shall include milk of producers caused to be delivered to such handler by a cooperative association.

§ 916.81 *Producer-handler exemption.* A producer-handler shall be exempt from all provisions of this part except §§ 916.32, 916.34 and 916.35.

§ 916.82 *Handler exemption.* A handler who operates a plant from which an average of less than 100 points (one point being defined as one pint of half-and-half or one quart of any other Class I product) of Class I milk per day is disposed of in the marketing area during the month on route(s) shall, with respect to such plant, be exempted for such month from all provisions of this part except §§ 916.33, 916.34 and 916.35.

§ 916.83 *Milk subject to other Federal orders.* Milk received at the plant of a handler at which the handling of milk is fully subject during the month to the pricing and payment provisions of another marketing agreement or order issued pursuant to the act and from which the disposition of Class I milk in the other Federal marketing area, either during the month or during the average of the 12 preceding months, exceeds that in the Upstate Michigan marketing area shall be exempted for such month from all the provisions hereof except §§ 916.33, 916.34 and 916.35 unless the Secretary determines that such plant is more appropriately regulated under this part.

§ 916.84 *Handler operating a nonpool distributing plant.* Each handler, other than a producer-handler or one exempt pursuant to §§ 916.82 or 916.83, who during the month operates a nonpool distributing plant, shall, in lieu of the payments required pursuant to §§ 916.70 through 916.74, pay to the market administrator as follows:

(a) If such handler so elects at the time of reporting pursuant to § 916.30, his obligations shall be as follows:

(1) On or before the 13th day after the end of the month, for the producer-settlement fund, an amount equal to the difference between the value of the Class I milk disposed of during the month on routes in the marketing area at the applicable Class I price for the month and the value of such milk at the Class III price; and

(2) On or before the 13th day after the end of the month, as his pro rata share of the expense of administration, the rate specified in § 916.74 with respect to Class I milk disposed of on routes in the marketing area.

(b) Unless such handler elects to have his obligations computed pursuant to paragraph (a) of this section, his obligations shall be as follows:

(1) On or before the 25th day after the end of the month, for the producer-settlement fund, the lesser of the amount computed pursuant to paragraph (a) (1) of this section, or any plus amount resulting from the following computation:

(i) Compute an amount equal to the value of milk which would be computed pursuant to § 916.60 for milk received from qualified dairy farmers at such plant for such month if such plant had been a pool plant;

(ii) Deduct the gross payments made by the handler to qualified dairy farmers for milk received at such plant for such month. Gross payments to be included in this computation shall be limited to cash payments made to the dairy farmer or his assignee on or before the date of the report required pursuant to § 916.31, plus the value of any supplies or services furnished by the handler on prior written authorization or as evidenced by a delivery ticket signed by the dairy farmer; and

(2) On or before the 13th day after the end of the month, as his pro rata share of the expense of administration, an amount equal to that which would have been computed pursuant to § 916.74 had such plant been a pool plant.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 916.90 *Effective time.* The provisions of this part, or of any amendment of this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 916.91 *When suspended or terminated.* The Secretary shall, whenever he finds that this part, or any provisions thereof, obstructs or does not tend to effectuate the declared policy of the act, terminate or suspend the operation of this part or any such provisions thereof.

§ 916.92 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this part, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 916.93 *Liquidation.* Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers, in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 916.100 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 916.101 *Separability of provisions.* If any provision of this part, or its application to any person or circumstances, is held invalid the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

[F. R. Doc. 57-5444; Filed, July 8, 1957; 8:52 a. m.]

[7 CFR Part 931]

[Docket No. AO-229-A4]

MILK IN CEDAR RAPIDS-IOWA CITY MARKETING AREA

DECISION WITH RESPECT TO PROPOSED AMENDMENT TO TENTATIVE MARKETING AGREEMENT AND TO ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Cedar Rapids, Iowa, on September 25-26, 1956, pursuant to notice thereof issued on August 31, 1956 (21 F. R. 6715).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Deputy Administrator, Agricultural Marketing Service, on May 29, 1957 (22 F. R. 3882) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. No exceptions to said recommended decision were filed.

The material issues on the record of the hearing related to:

1. Expansion of the marketing area;

2. Qualifications for attaining pool plant status;

3. Modification of the producer definition;

4. Revision of the producer-handler definition;

5. Level of the Class I price;

6. Application of location differentials on class prices and in paying producers;

7. Payments on unpriced milk disposed of in the marketing area from nonpool plants; and

8. Miscellaneous administrative and conforming changes.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. The marketing area as defined in the order should not be changed at this time.

The marketing area in the present order is all the territory within the corporate limits of the cities of Cedar Rapids and Iowa City. As proposed in the hearing notice by the producer organization and handlers in the market, the marketing area would include all the territory within Linn and Johnson Counties (in which counties Cedar Rapids and Iowa City are located) and within Springdale and Wapsinonoc Townships in Cedar and Muscatine Counties, respectively. At the hearing, however, producers took the position that the marketing area should be all Johnson and Linn Counties except the townships of Grant, Spring Grove, Jackson, Washington, Otter Creek, and Maine in the northern part of Linn County.

It was not shown what, if anything, would be accomplished by expansion of the marketing area. Although some handlers now regulated by the order distribute substantial quantities of milk beyond the boundaries of the present marketing area, there is no evidence that they compete in the territory proposed to be added to the present marketing area with handlers who are not now regulated. Data relative to sales by handlers under the Cedar Rapids-Iowa City order in the various localities proposed to be included in the marketing area were not presented at the hearing. Neither was such information with respect to sales by unregulated handlers, if any, with whom they compete, put on the record.

Some milk is sold at retail by producer-handlers at their farms outside the present marketing area. Producers argued that the expanded area was necessary, especially if the milk sold at these various farms became regulated. Elsewhere in this decision, the proposal which would include such sales as pooled milk under the order is denied. Consequently, expanding the marketing area because of competition from producer-handlers, irrespective of its merit, is not a matter of consideration at this time.

Any disruptive or unstable marketing conditions which may prevail in the Cedar Rapids-Iowa City market at the present time would not, as indicated by the evidence presented at the hearing, be alleviated by expansion of the marketing area. This was recognized by producers who suggested that the marketing area be expanded as a safeguard to unfair competition in the communities adjacent to the marketing area wherein unregulated handlers might, at some future time, have an advantage over handlers subject to the order. It was not shown that such a development is anticipated in the immediate future or from where such handlers who would have an advantage over Cedar Rapids-Iowa City handlers would come.

The degree to which there may or may not be a need for expansion of the marketing area at the present time was emphasized particularly by the position taken by those who would be most affected by a change—handlers now regulated by the Cedar Rapids-Iowa City order. No testimony was presented at the hearing by any such handler in connection with the proposal for expansion of the marketing area.

2. The order should be revised to prescribed standards based on association with the market for qualifying a plant as a pool plant. As now provided in the order, a regulated plant or a pool plant is designated an "approved plant" and is (a) any plant from which Grade A milk is disposed of on a route or through a plant store in the marketing area, and (b) a plant which furnishes milk to an approved plant from which milk is distributed in the marketing area.

The basis for determining which plants shall be pool plants under the Cedar Rapids-Iowa City order, and thereby fully subject to regulation, should be clearly set forth in the order and apply uniformly to all plants, wherever located. Pool plant status should not be determined solely on an occasional shipment of milk to the market, or on approval by a specified health authority. Such a method for determining which plants shall be subject to regulation would not provide a workable basis for administering the order in conjunction with the other provisions recommended in the decision.

Since the production of high quality milk involves extra expenses, it is important that the amount of milk produced under Grade A inspection be no more than the minimum necessary to provide the market with an adequate and dependable supply of quality milk. To encourage more than enough production of such milk would represent an economic waste, since the expenditures involved in producing Grade A milk not needed on the market would result in no extra value to consumers.

Essential to the operation of a market-wide pool is the establishment of performance standards to apply uniformly to all plants. Any plant, regardless of its location, should have equal opportunity to comply with the standards and thereby to participate in the marketwide pool and have its producers share in the Class I sales of the market. Any producer who meets the necessary health department requirements should be permitted, under the order, to sell his milk to plants meeting the standards of qualification. Whether or not plants and producers choose to supply the Cedar Rapids-Iowa City market will depend on the economic circumstances with which they are confronted, such as prices, transportation costs, and alternative outlets.

Performance standards should be such that any plant which has as its major function the supplying of milk to the market would pool its sales and share in the marketwide equalization. On the other hand, plants only casually, or incidentally, associated with the market should not be subject to complete regulation, nor should they be permitted or required to equalize their sales with all handlers in the market. If a milk plant were to be permitted to share on a pro rata basis the Class I utilization of the entire market without being genuinely associated with the market, then the premiums or differentials paid by users of Class I milk would be dissipated without accomplishing their intended purpose. If a plant were to be qualified and fully regulated merely by making a token shipment of milk or cream into the market for sale as Class I milk, then any milk plant which found itself in a position where it was selling a smaller share of its milk in Class I than the average for all regulated handlers might make such shipment and receive equalization payments from the pool. The only qualification such a plant would be required to meet would be compliance with the necessary health department standards.

Since reserve milk is an essential part of any fluid milk business there will always be some excess milk in the plants of handlers supplying other markets. This will be particularly true in the months of flush production. Plants selling primarily to other markets, or plants shipping milk on an opportunity basis to any market where supplies happen to be short, do not represent sources of milk on which the Cedar Rapids-Iowa City market may depend. If such plants were allowed to sell a token quantity of milk in the marketing area and pool their surplus whenever Class I outlets were not available to them, the result would be that such handlers could gain an advantage in paying producers through receipt of equalization payments from the Cedar Rapids-Iowa City pool.

The Cedar Rapids-Iowa City market, however, would gain no advantage from the payment of equalization to such a handler. Such a distribution of equalization payments would, in fact, reduce the blend price to producers regularly supplying the market, thereby having an adverse effect on the milk supplies upon which the market depends. This could result in the need for higher Class I prices than would otherwise be required to supply the market adequately.

Because of the difference in marketing practices and functions between distributing plants and supply plants, two sets of performance standards have been provided. A "distributing plant" under the order would be defined as a plant in which milk is processed or packaged and from which any fluid milk product (as hereinafter defined) is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area. "Supply plant" would be defined to mean

a plant (except a distributing plant) from which milk, skim milk or cream which is acceptable to the appropriate health authority for distribution in the marketing area under a Grade A label is shipped during the month to a distributing plant which is qualified as a pool plant.

In order to qualify as a pool plant, a distributing plant should be required to distribute at least 15 percent of its milk from producers and other plants during the month as Class I milk on retail or wholesale routes to outlets in the marketing area.

A distributing plant having more than 85 percent of its business outside the marketing area or in other outlets should not be considered as essentially associated with the market. It is not considered advisable to bring such a plant under full regulation because of the minor share of its business which is in the marketing area. Full regulation in such case would not be necessary to accomplish the purposes of the order, and might well place such plant at a competitive disadvantage in relation to its competitors in supplying the unregulated market.

Such a minimum is necessary also to avoid the possibility that a plant otherwise not associated with the market might qualify itself for equalization payments to its own advantage, and to the disadvantage of the market, by means of minor sales in the marketing area.

It is contemplated that only plants primarily engaged in route distribution of fluid milk products should be qualified as pool plants under this definition. In order to preserve this distinction, a further condition is placed on distributing plants that their total distribution of Class I milk on routes to wholesale or retail outlets, both inside and outside the marketing area, must amount during the month to at least 35 percent of their receipts of milk from dairy farmers and from other plants. Any plant which does not qualify on this basis should be deemed to be primarily a supply plant and its status under the pool should be judged by the standards applied to such plants.

A plant from which milk for Class I uses is distributed regularly in the marketing area under normal circumstances may be expected to dispose of its milk in such a way as to exceed by a reasonable margin the minimum performance standards necessary to qualify as a pool plant. There may be from time to time plants supplying milk to the marketing area which would not qualify for pool status. Such plants would be subject to payments hereinafter discussed if they are not fully subject to regulation.

The performance standards for supply plants to qualify for pool plant status should reflect the fact that currently the quantity of milk produced for the Cedar Rapids-Iowa City market is adequate on an annual basis for the needs of the market. At times, especially during the months of seasonally high production, distributors in the market have not needed all of the milk available from producers in order to keep their Class I outlets fully supplied. In order to assure that all the producers' milk which is pooled with the market will be available for Class I, supply plant standards should be set at levels which require that such milk will be available.

In order to qualify for pool plant status a supply plant should ship to distributing plants which are pool plants at least 35 percent of its receipts of milk from dairy farmers in any month in the form of supplemental supplies of fluid milk products. A supply plant from which a proportionately lesser quantity of milk is disposed of in this manner should not, under the present conditions in the Cedar Rapids-Iowa City market, be considered as primarily associated with the regulated market.

It is recognized that if there is any demand for milk from supply plants it will be greatest during the season of low production. For sustained periods during the months of flush production supplies of milk received at plants located in or near the marketing area may be sufficient to supply the Class I outlets. During this part of the year, it would be more economical to leave the most distant milk in the country for manufacture, and use local supplies for Class I use. The performance provisions should not force milk to be transported to distributing plants in the summertime in order to maintain the eligibility of supply plants to pool.

To avoid this, provision should be made whereby a supply plant may maintain pool plant status throughout the year if it supplies a substantial portion of its producer milk to distributing plants during the months when milk production tends to be lowest. The proposed standards require that a supply plant provide distributing plants which are pool plants with milk to the extent of 50 percent of its producer milk receipts during the period of September through November to maintain automatic pool status for the months of March through June.

Any distributing plant or supply plant which does not meet the standards for a pool plant should be required to file reports and submit to audits by the market administrator to verify the status of such plant.

A finding is made elsewhere in this decision (Issue No. 7) that when milk distributed in the marketing area is from plants which dispose of a major portion of their receipts in another regulated area and which are fully subject to the classification, pricing and pooling provisions of another Federal milk marketing order, it is not necessary to extend full regulation under this order to such plants. To do so would subject such plants to duplicate regulation. However, in order that the market administrator may be fully apprised of the continuing status of such a plant, the operator thereof should, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

3. Producer should be defined as any person, except a producer-handler, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, which milk is (a) received at a pool plant or (b) diverted from a pool plant to a nonpool plant for the account of either the operator of the pool plant or a cooperative association (1) any day during the months of April through June, and (2) on not more than one-half the days on which milk was delivered from a farm during any of the other months.

As now provided in the order, to qualify as a producer a dairy farmer must ship to an approved plant and have the approval of the health authorities of Cedar Rapids or Iowa City. Once a person has qualified as a producer his production may be diverted from an approved plant to an unregulated plant at any time during the year and for any period of time. In effect, it is now possible for a dairy farmer to be a producer under the order even though his milk is delivered continuously to an unregulated plant.

Findings are made elsewhere in this decision justifying the establishment of pool plant qualifications based on standards of association with the market and for requiring compensatory payments on unpriced milk received at a pool plant or distributed in the marketing area from a nonpool plant. Accordingly, the producer definition in the order should be revised so as to complement these other provisions.

Whether a farmer qualifies as a producer under the order is based on whether the plant to which he ships is qualified as a pool plant. Under the pool plant definition herein proposed, a plant's qualification as a pool plant is determined on the basis of a minimum specified percentage of the milk received at such plant being distributed as Class I in the marketing area or, in the case of a supply plant, on the basis of a minimum specified percentage of its milk receipts having been shipped to a distributing plant which is a pool plant. If a handler were permitted to divert producer milk in any month and for any length of time to a nonpool plant as now permitted in the order, it would be extremely difficult, if not impossible, to determine the degree, if any, to which such producer actually was associated with this market.

When producer milk is not needed in the market for Class I purposes the movement of such milk to nonpool plants for manufacturing purposes should be facilitated. Allowing for unlimited diversion only during those months when reserve supplies of milk are heaviest will contribute to this end. Unlimited diversion is neither necessary nor desirable during the months of the year when milk of producers regularly associated with the market is needed to supply the Class I needs of the market. It is necessary, however, to provide for limited diversion during such months to enable handlers to divert producer milk on such occasions as week-ends or holidays when milk is not needed in the market for Class I purposes.

Provision should be made so that milk of producers regularly received at a pool plant may be diverted for the account of a handler to a nonpool plant any day during the months of flush production and with respect to not more than one-

half of the days on which milk was delivered from a farm during any of the other months and still retain producer status under the order. As heretofore provided in the order, diverted milk shall be deemed to have been received at the plant from which it was diverted.

4. It was proposed by handlers and producers that the plant of a producer-handler from which more than an average of 1,000 pounds of milk daily is disposed of in the marketing area should be a pool plant. The order now exempts from pooling all milk produced on the farm of a producer-handler who receives no milk from other dairy farmers.

There are three producer-handlers in the area, producing a total of between 11,000 and 14,000 pounds of milk daily. The producer-handler handling the largest volume distributes milk in the marketing area through a chain of supermarkets owned by him. The other two sell milk on a cash and carry basis in gallon containers at their farms, One of them is located immediately adjacent to the city limits of Iowa City. The other is in or near the City of Marion, which is contiguous to Cedar Rapids.

Elsewhere in this decision the proposal to expand the marketing area is denied. Accordingly, any change in the producer-handler definition at this time would have no effect on the two producer-handlers operating outside the marketing area.

It was claimed that producer-handlers have the benefit of a share of the Class I market without carrying their fair share of the burden of surplus for the markets. The one producer-handler who distributes milk in the marketing area produces more than an adequate supply for his Class I needs and assumes the full responsibility for marketing his excess production for manufacturing purposes. Moreover, no evidence was presented at the hearing to show that the surplus from his operation is proportionately less than that which is pooled by all producers under the Cedar Rapids-Iowa City order.

Of the three producer-handlers now in business, two began their operations as handlers within the year preceding the time of the hearing. It was argued that unless the producer-handler definition is revised an additional number of producers would come on the market as producer-handlers, bringing about unstable and demoralized marketing conditions. It is not possible to justify this conclusion on the basis of the information contained in the hearing record.

In view of the above, it is concluded that no action should be taken at this time with respect to changing the producer-dealer definition in the order. Accordingly, the request therefor is denied.

5. The Cedar Rapids-Iowa City Class I milk price is now calculated by adding to the Class II milk price for the preceding month a differential of 65 cents for May and June, 85 cents December through April and $1.15 July through November.

Producers proposed that the Cedar Rapids-Iowa City price be related directly to the Quad Cities order Class I price. The Quad Cities order as amended May 1, 1957, provides for a Class I price equal to the Chicago order Class I price plus 20 cents. Prior to May 1, 1957, the Quad Cities price was the higher of either (a) the Chicago order Class I price plus 20 cents or (b) the Class II price for the preceding month plus a differential of 75 cents for May and June, 95 cents December through April and $1.15 July through November. The price obtained by using the latter alternative averages 6 cents above Cedar Rapids-Iowa City Class I price. For the two full calendar years immediately preceding the hearing, 1954 and 1955, the Cedar Rapids-Iowa City Class I price averaged $3.90, exceeding the Chicago order Class I price of $3.76 for the same period by 14 cents.

The Chicago milkshed is one of the principal milk production areas in the United States. At various times throughout the year, especially during the months of low production, milk from this area is shipped great distances to many markets throughout the country. The Chicago order Class I price is used extensively as a recognized price quotation both locally and nationally. It is not uncommon to fix Class I prices in a market on the basis of the price in a major milk marketing area, such as Chicago, or on the basis of obtaining alternative sources of supply from such major market.

There is extensive overlapping of the production area for the so-called Mississippi Valley order markets of Cedar Rapids-Iowa City, Quad Cities and Dubuque, and producers in such localities may shift from one market to another. Although the marketing areas of Quad Cities and Cedar Rapids-Iowa City are approximately 80 miles apart, a country plant for the Quad Cities market at Coggon, Iowa, is less than 25 miles from Cedar Rapids. Handlers from these Mississippi Valley order markets compete in some localities with Chicago order handlers for supplies. There is much competition among handlers regulated by different of the Mississippi Valley order markets and some of these handlers, in turn, compete for sales with Chicago order handlers.

A hearing has been held to consider regulation for the territory tentatively designated as the North Central Iowa marketing area. Included in this marketing area, as proposed, would be the cities of Waterloo and Marshalltown, each of which is approximately 70 miles from Cedar Rapids. Waterloo and Marshalltown distributors compete for sales with Cedar Rapids-Iowa City order handlers at many locations in eastern Iowa. In addition, there is a significant overlapping of the production areas for the North Central Iowa and Cedar Rapids-Iowa City markets.

In order to insure the maintenance of an adequate, but not excessive, supply of milk for the Cedar Rapids-Iowa City market it is necessary that an appropriate alignment of prices between markets prevail and that the level of such prices be equitable among handlers whose sales areas overlap but who are subject to regulation by different orders.

The Class II price under the Cedar Rapids-Iowa City order, which is based on the prices paid by local manufacturing plants for ungraded milk, is a measure of the value of milk for manufacturing locally. The Chicago order, on the other hand, does not use prices paid by these local manufacturing plants to arrive at its Class I price, but uses instead a "basic formula price" which reflects the value of milk for manufacturing purposes nationally. Such a basic formula price is utilized widely in determining Class I prices in many other Federal order markets. As such, it may be expected to be a most appropriate determinant for use in establishing the Class I price each month in the Cedar Rapids-Iowa City market, especially since handlers in this market must compete in various localities with handlers whose Class I prices are fixed by other orders.

Unless handlers regulated by the Cedar Rapids-Iowa City order are able to anticipate and project the prices they will be required to pay for Class I milk in relation to recognized and established price quotations used in major markets, they will be at a disadvantage with handlers from other markets in competing for Class I sales beyond the confines of the marketing area. Determining the Cedar Rapids-Iowa City order Class I price on a direct relationship with the Chicago order Class I price instead of on the basis of prices paid by local manufacturing plants (i. e. the Class II price), will provide an economically sound basis for determining the Cedar Rapids-Iowa City Class I price.

In view of the aforementioned considerations, it is concluded that the intent of the Act will be best effectuated by fixing the Class I price under the Cedar Rapids-Iowa City order at the level of the Chicago order Class I price plus 15 cents. The level of prices thus obtained should be helpful toward insuring the maintainence of orderly and stable marketing conditions throughout the territory wherein milk is distributed by Cedar Rapids-Iowa City handlers.

6. It was proposed at the hearing that handlers be allowed a location differential with respect to milk moved from the plant at which it is received from producers to a processing plant. Some of the milk normally supplied to the marketing area is received from producers located at significant distances from the marketing area.

Rochester, Minnesota, is 184 miles from Cedar Rapids and 211 miles from Iowa City. Milk from the Minnesota farms of producer members of the Rochester Dairy Cooperative is shipped directly to an Iowa City pool plant when needed in that market. At other times it is diverted to a nonpool plant for manufacturing purposes. During periods of low production supplemental supplies of milk for the marketing area are obtained from the plant of the Rochester Dairy Cooperative in Rochester.

A plant at Clinton, Iowa, 87 miles from Cedar Rapids, is operated by a handler who is also the operator of a pool plant in Cedar Rapids. Although the Clinton plant at the time of the hearing was regulated under the Quad Cities order, the handler stated that he contemplated qualifying it as a pool plant under the Cedar Rapids-Iowa City order.

Under the pool plant definitions provided in this decision, any plant wherever located, by meeting the prescribed performance standards, may qualify as a pool plant. There are various plants in the production area for the Cedar Rapids-Iowa City market which are potential sources of supply for the market. It is therefore necessary that provision be made within the framework of the order for the application of location differentials. Such a provision will appropriately afford equal opportunity for supplying the market to all handlers.

Since it is intended that the minimum prices shall be equal for all milk delivered to the marketing area, an allowance should be made to account for the transportation charges to the marketing area on milk received at a distance from it. Unless such an allowance is provided, handlers would be under strong economic incentive to accept milk only at plants located in the marketing area and this condition would impede the orderly procurement and marketing of milk which is received at other plants. It is, consequently, necessary to recognize by the application of location differentials, which reflect the cost of transporting milk to its place of distribution in the marketing area, the difference in value of milk received at a distance from the market in comparison with milk received at plants in or near the market.

The Quad Cities order was amended effective May 1, 1957, to provide for a location differential which reduces the price for Class I milk received from producers at a pool plant located more than 50 miles from the Rock Island, Illinois, city hall by 10 cents for the first 65 miles or less and by 1.5 cents for each additional 10 miles or fraction thereof that such plant is from the Rock Island city hall. The rate charged for a haul of 60 miles by the Dairyland Transport Corporation, Springfield, Missouri, a company specializing in hauling milk and milk products in tank trucks, is 13 cents per hundredweight.

Various plants which are potential sources of supply for the Cedar Rapids-Iowa City market are in some instances located nearer to other markets. Likewise, some plants in the Cedar Rapids-Iowa City production area are associated with markets farther away. A handler operating a pool plant in Cedar Rapids contemplates utilizing his plant at Clinton, Iowa, which is in the Quad Cities marketing area, as a receiving station for his Cedar Rapids operation. Coggon, Iowa, which is about 95 miles from Rock Island, Illinois, in the Quad Cities marketing area and less than 25 miles from Cedar Rapids, is a pool plant under the Quad Cities order. It is important, therefore, that the location differential be established at a rate which would not tend to adversely affect returns to Cedar Rapids-Iowa City producers in relation to the prices in nearby markets.

It is concluded, therefore, that the Class I price should be reduced by 10 cents for the first 65 miles and by 1.5 cents for each additional 10 miles or fraction thereof with respect to producer milk received at a plant which is not less than 50 miles from a central place in the principal centers of consumption in the marketing area. The city hall in each of the cities of Cedar Rapids and Iowa City is such a place.

Prices paid producers supplying plants to which location differentials apply should be reduced to reflect the lower value of such milk f. o. b. the point to which delivered. If the milk of such producer were to be included in this market in the absence of a receiving station the producers would have to deliver the milk to its market at their own expense and at a transportation rate commensurate with the Class I location differential. In adjusting returns to producers because of location, it is appropriate therefore to use the Class I location adjustment rate.

No adjustment should be made in the Class II price because of the location of the plant to which the milk is delivered. There is little difference in the value of milk for manufactured uses associated with the location of the plant receiving the milk. This is true because of the low cost per hundredweight of milk involved in transporting manufactured products. The prices paid for ungraded milk received at various sections of the milkshed do not indicate any difference in value associated with location.

After a handler receives milk for Class II use, he should be expected to handle and dispose of the milk in the most advantageous possible manner. Prices paid producers for such milk should not be dependent upon the method employed by the handler in disposing of such milk. To do otherwise would remove part of the incentive for keeping handling costs at a minimum. To insure that milk will not be moved unnecessarily at the expense of producers under the marketwide pool, the order should contain a provision to determine whether milk transferred between plants may receive the location differential credit. This should provide that any milk transferred be assigned to any Class II use remaining in the transferee plant after a maximum assignment of 5 percent of the direct producer receipts to Class II milk at such plant.

7. The order should provide that payment be made into the producer-settlement fund with respect to unpriced milk which is allocated to Class I milk in a pool plant. There was no opposition at the hearing to the proposal of producers for including such a provision in the order.

Receipt of milk in excess of Class I disposition is necessary to operate a fluid milk business. Because of seasonal fluctuations in production without corresponding changes in demand, this excess or reserve milk must be marketed in manufactured form in competition with products made from ungraded milk. The existence of this reserve Grade A milk, which must be marketed at a lower price, is the primary cause of the instability which may affect fluid milk markets.

Considerable volumes of Grade A milk must be disposed of as surplus by various unregulated plants from which the Cedar Rapids-Iowa City market may obtain milk. Consequently, handlers under the order could obtain such milk at prices reflecting its value as surplus milk. During the months of December through June, when surplus milk may be available in substantial volumes from nonpool sources, the compensation payment on other source milk allocated to Class I milk should be the difference between the minimum price of producer milk used for surplus (Class III) and the Class I price adjusted to the location of the plant from which such other source milk was obtained. This rate will reflect generally the difference in the value between unregulated and regulated milk for Class I use at that time.

During the months of July through November, when milk supplies tend to be shorter than in other months, it is not likely that other source fluid milk products will be available to the market at surplus prices. The compensation payment during these months should be the difference between the marketing area uniform price to producers and the Class I price adjusted to the location of the plant from which such fluid milk products are supplied. The relationship between the supply of and demand for milk in the Cedar Rapids-Iowa City market in the July through November period tends to fluctuate from year to year according to marketing conditions. These conditions will generally prevail also in surrounding markets which are potential sources of supply for unpriced milk. Thus, the rate of compensation payment based on the difference between Class I and uniform prices will adjust itself automatically in these months in accordance with the proportion of Class I milk to the total milk pooled and this will tend to affect also conditions in the area from which unpriced milk is obtained.

The compensatory payment rates herein recommended were proposed by producers and substantiated by evidence presented at the hearing. No testimony was given in opposition to the rates herein proposed or in support of different rates.

The rates which are here found to be appropriate for the Cedar Rapids-Iowa City marketing area give recognition to general competitive conditions in the purchase and sale of fluid milk products. However, such conditions do not prevail uniformly in all instances since all transactions are not made under the same circumstances and it would not be administratively feasible to adjust prices or payments to individual transactions. It is therefore necessary to have definite and specified rates applicable to all handlers similarly situated. The rates herein proposed are those which will best effectuate the intent of the act under current marketing conditions in the Cedar Rapids-Iowa City area.

Other source milk used in the form of concentrated milk products should be considered to be from a source at the location of the pool plant where it is used. In some instances there will be no and in all cases insignificant transportation charges per hundredweight experienced by handlers on such other source milk under the skim milk equivalent basis of accounting provided in the order. By following this procedure, the compensation payment on other source milk derived from concentrated products, such as condensed milk or nonfat dry milk solids, will be comparable to that

on any other source milk which is allocated to Class I milk.

In addition to that other source milk which would enter the marketing area through pool plants, some milk may be distributed directly in the marketing area from nonpool plants. It would not be possible to stabilize the market under the classified pricing program if distribution in the marketing area of unpriced milk from nonpool plants without compensation payments were allowed. Since such milk may be procured on the same basis as other source milk at pool plants it should be classified and priced the same as unpriced milk distributed through any other channels.

No compensation payment should be required on milk classified and priced as Class I under another Federal milk marketing order. The minimum prices for Class I milk under other Federal orders where Cedar Rapids-Iowa City handlers might obtain supplemental supplies approximate or exceed the Cedar Rapids-Iowa City Class I price as adjusted for location of the supplying plants. Since handlers operating plants under other Federal orders must pay for producer milk on a utilization basis, they would not be in a position to dispose of their surplus producer milk on the Cedar Rapids-Iowa City market for Class I use at less than Class I prices.

The compensatory payment charge on Class I milk distributed in the marketing area by a handler regulated under another Federal order should be discontinued. The rate of payment on such milk, which is now required when the Cedar Rapids-Iowa City Class I price is above that of the other Federal order, is the difference between Class I prices in the two orders. With the changes recommended in this decision and under current and prospective marketing conditions, such provision is no longer either necessary or justifiable within the framework of the Cedar Rapids-Iowa City order.

8. The entire order should be redrafted to incorporate therein conforming and clarifying changes made necessary by the amendments recommended in this decision.

(a) In connection with the proposed changes designating which persons would be subject to regulation and application of order provisions to them, new or revised definitions are provided in the attached order, including those for: "fluid milk product", "producer milk", "other source milk", "nonpool plant", "handler", and "Chicago butter price". The definitions for "producer", "pool plant", "distributing plant", and "supply plant" are discussed elsewhere in this decision.

"Fluid milk product" would mean milk, skim milk, buttermilk, milk drinks (plain or flavored), cream, or any mixture in fluid form of skim milk and cream (except aerated cream products, ice cream mix, evaporated or condensed milk, and sterilized products packaged in hermetically sealed containers). The items defined as fluid milk products pursuant to this definition are those products which when disposed of by handlers are considered as Class I milk.

"Producer milk" would mean only that skim milk and butterfat contained in milk received at a pool plant directly from producers or diverted from a pool plant to a nonpool plant in accordance with the conditions prescribed in a producer definition (Issue No. 3).

"Other source milk" would be defined as all skim milk and butterfat contained in fluid milk products utilized by the handler in his operations except milk received from producers, fluid milk products received from other plants, and inventory at the beginning of the month. Thus, other source milk would represent skim milk and butterfat which may not be subject to the pricing provisions of this order. It would include all milk products from plants other than pool plants and all manufactured dairy products from any source which are reprocessed or converted into another product during the month. It would include those manufactured products from a plant's own production which are reprocessed or converted into another product during the same or a latter month.

"Nonpool plant" would mean any milk manufacturing, processing, or bottling plant other than a pool plant.

"Handler" would be defined as any person in his capacity as the operator of one or more distributing or supply plants. The definition would also include a cooperative association with respect to milk from producers diverted for its account from a pool plant to a nonpool plant.

"Chicago butter price" would represent the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department.

(b) Handlers have inventories of milk and milk products at the beginning and end of each month which enter into the accounting for current receipts and utilization. It has been the practice under the Cedar Rapids-Iowa City order to classify in the lowest class (usually Class III) the differences by which the volume of butterfat and skim milk in fluid milk products at the end of the month exceed the inventory at the beginning of the month. This practice of classifying inventory variations in the lowest price class should be continued and provision therefor should be clearly set forth in the order.

The accounting procedure will be facilitated by providing that month-end inventories of all fluid milk products be classified in Class III milk, regardless of whether such products are held in bulk or in packages. Inventories of such products on hand will then be subtracted under the allocation procedure from any available Class III milk in the following month. The higher use value of any fluid milk products in inventory which are allocated to Class I milk in the following month should be reflected in returns to producers. The mechanics of the attached order provide for the reclassification of inventories on that basis.

Inventories of products designated as Class I milk on hand at a pool plant at the beginning of any month during which such plant becomes a pool plant for the first time should likewise be allocated to any available Class III utilization of the plant during the month. This will preserve the priority of assignment of current producer receipts to current Class I use.

General findings. (a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Marketing agreement and order amending the order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Cedar Rapids-Iowa City Marketing Area" and "Order Amending the Order Regulating the Handling of Milk in the Cedar Rapids-Iowa City Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of April 1957 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order, regulating the handling of milk in the Cedar Rapids-Iowa City marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be further amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Issued at Washington, D. C., this 2d day of July 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

Order[1] Amending the Order, as Amended, Regulating the Handling of Milk in the Cedar Rapids-Iowa City Marketing Area

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AUTHORITY: §§ 931.0 to 931.101 issued under sec. 5, 49 Stat. 753 as amended; 7 U. S. C. 608c.

§ 931.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Cedar Rapids-Iowa City marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk, as determined pursuant to section 2 of the act, are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in said marketing area, and the minimum prices specified in the order, as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Cedar Rapids-Iowa City marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended to read as follows:

DEFINITIONS

§ 931.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 931.2 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 931.3 *Department.* "Department" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions of the United States Department of Agriculture.

§ 931.4 *Person.* "Person" means any individual, partnership, corporation, association, or other business unit.

§ 931.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

§ 931.6 *Cedar Rapids-Iowa City marketing area.* "Cedar Rapids-Iowa City marketing area" hereinafter called the "marketing area", means all the territory within the corporate limits of the cities of Cedar Rapids and Iowa City, both in the State of Iowa.

§ 931.7 *Producer.* "Producer" means any person, except a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is (a) received at a pool plant, or (b) diverted from a pool plant to a nonpool plant for the account of either the operator of the pool plant or a cooperative association (1) any day during the months of April through June, and (2) on not more than one-half the days on which milk was delivered from a farm during any of the months of July through March: *Provided,* That milk diverted pursuant to this section shall be deemed to have been received at the location of the plant from which diverted.

§ 931.8 *Distributing plant.* "Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

§ 931.9 *Supply plant.* "Supply plant" means a plant from which milk, skim milk or cream which is acceptable to the appropriate health authority for distribution in the marketing area under a Grade A label is shipped during the month to a pool plant qualified pursuant to § 931.10 (a).

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

§ 931.10 *Pool plant.* "Pool plant" means:

(a) A distributing plant from which a volume of Class I milk equal to not less than 35 percent of the Grade A milk received at such plant from dairy farmers and from other plants is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) and not less than 15 percent of such receipts are so disposed of to such outlets in the marketing area.

(b) A supply plant from which the volume of fluid milk products shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is equal to not less than 35 percent of the Grade A milk received at such plant from dairy farmers during such month: *Provided,* That if such shipments are not less than 50 percent of the receipts of Grade A milk at such plant during the immediately preceding period of September through November, such plant may, upon written application to the market administrator on or before March 1 of any year, be designated as a pool plant for the months of March through June of such year.

§ 931.11 *Nonpool plant.* "Nonpool plant" mean any milk manufacturing, processing or bottling plant other than a pool plant.

§ 931.12 *Handler.* "Handler" means:

(a) Any person in his capacity as the operator of one or more distributing or supply plants.

(b) Any cooperative association with respect to the milk from producers diverted by the association for the account of such association from a pool plant to a nonpool plant.

§ 931.13 *Producer-handler.* "Producer-handler" means any person who operates a dairy farm and a distributing plant but who receives no milk from other dairy farmers.

§ 931.14 *Producer milk.* "Producer milk" means only that skim milk or butterfat contained in milk (a) received at the pool plant directly from producers or (b) diverted from a pool plant to a nonpool plant in accordance with the conditions set forth in § 931.7.

§ 931.15 *Fluid milk product.* "Fluid milk product" means milk, skim milk, buttermilk, milk drinks (plain or flavored), cream or any mixture in fluid form of skim milk and cream (except aerated cream products, ice cream mix, evaporated or condensed milk, and sterilized products packaged in hermetically sealed containers).

§ 931.16 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month in the form of fluid milk products except (1) fluid milk products received from pool plants, (2) producer milk, or (3) inventory at the beginning of the month; and

(b) Products other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 931.17 *Chicago butter price.* "Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department.

MARKET ADMINISTRATOR

§ 931.20 *Designation.* The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 931.21 *Powers.* The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 931.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount, and with reasonable surety thereon, covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 931.87: (1) The cost of his bond and of the bonds of his employees, (2) his own compensation, and (3) all other expenses, except those incurred under § 931.88, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate the name of any person who within 10 days after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 931.30 and 931.31, or payments pursuant to §§ 931.80, 931.84, 931.86, 931.87, and 931.88;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be required by the Secretary;

(h) Verify all reports and payments of each handler by audit of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends, or by such investigation as the market administrator deems necessary;

(i) Prepare and disseminate to the public such statistics and such information as he deems advisable and as do not reveal confidential information;

(j) Publicly announce on or before:

(1) The 5th day of each month, the minimum price for Class I milk pursuant to § 931.50 (a) and the Class I butterfat differential pursuant to § 931.51 (a) both for the current month; and the minimum prices for Class II milk and Class III milk pursuant to § 931.50 (b) and (c) and the Class II and Class III butterfat differentials pursuant to § 931.51 (b) and (c), all for the preceding month; and

(2) The 10th day after the end of each month the uniform price pursuant to § 931.71 and the producer butterfat differential pursuant to § 931.81; and

(k) On or before the 10th day after the end of each month, report to each cooperative association, which so requests the percentage of the milk caused to be delivered by the cooperative association or its members to the pool plant(s) of each handler during the month, which was utilized in each class. For the purpose of this report, the milk so delivered shall be allocated to each class for each handler in the same ratio as all producer milk received by such handler during the month.

REPORTS, RECORDS AND FACILITIES

§ 931.30 *Reports of receipts and utilization.* On or before the 7th day after the end of each month, each handler, except a producer-handler, shall report for such month to the market administrator in the detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and butterfat contained in receipts of producer milk;

(b) The quantities of skim milk and butterfat contained in fluid milk products received from other pool plants;

(c) The quantities of skim milk and butterfat contained in other source milk;

(d) The quantities of skim milk and butterfat contained in producer milk diverted to nonpool plants pursuant to § 931.7;

(e) Inventories of fluid milk products on hand at the beginning and end of the month;

(f) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk outside the marketing area; and

(g) Such other information with respect to his utilization of butterfat and skim milk as the market administrator may prescribe.

§ 931.31 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month for each of his pool plants his producer payroll for such month which shall show for each producer:

(1) His name and address,

(2) The total pounds of milk received from such producer,

(3) The number of days, if less than the entire month, for which milk was received from such producer,

(4) The average butterfat content of such milk, and

(5) The net amount of such handler's payment together with the price paid and the amount and nature of any deductions.

§ 931.32. *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations, together with such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form during the month;

(b) The weights and butterfat and other content of all milk, skim milk, cream and other milk products handled during the month;

(c) The pounds of skim milk and butterfat contained in or represented by all milk products on hand at the beginning and end of each month; and

(d) Payments to producers and cooperative associations.

§ 931.33 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 931.40 *Skim milk and butterfat to be classified.* The skim milk and butterfat which are required to be reported pursuant to § 931.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 931.41 through 931.46.

§ 931.41 *Classes of utilization.* Subject to the conditions set forth in § 931.44 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat (1) disposed of in the form of a fluid milk product and (2) not accounted for as Class II milk or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat which are not accounted for as Class III milk and which are used to produce any product other than a fluid milk product.

(c) Class III milk shall be all skim milk and butterfat (1) used to produce butter, Cheddar cheese, animal feed, casein and nonfat dry milk solids; (2) contained in inventory of fluid milk products on hand at the end of the month; (3) in shrinkage allocated to receipts of producer milk (except milk diverted to a nonpool plant pursuant to § 931.7) but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively; and (4) in shrinkage of other source milk.

§ 931.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in producer milk and in other source milk.

§ 931.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 931.44 *Transfers.* Skim milk or butterfat disposed of each month from a pool plant shall be classified:

(a) As Class I milk, if transferred in the form of a fluid milk product to the pool plant of another handler, except a producer-handler, unless utilization in another class is claimed by both handlers in their reports submitted for the month to the market administrator pursuant to § 931.30: *Provided,* That the skim milk or butterfat so assigned to another class shall be limited to the amount thereof remaining in Class II milk and in Class III milk in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 931.46 and any additional amounts of such skim milk or butterfat shall be classified as Class I milk: *And provided further,* That if either or both handlers have received other source milk, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I utilization to the producer milk of both handlers;

(b) As Class I milk, if transferred to a producer-handler in the form of a fluid milk product; and

(c) As Class I milk, if transferred or diverted in the form of a fluid milk product in bulk to a nonpool plant unless:

(1) The transferring or diverting handler claims classification in Class II milk or in Class III milk in a written statement submitted to the market administrator by the operators of both the pool plant and the nonpool plant on or before the 7th day after the end of the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) An equivalent amount of skim milk and butterfat has been used at the nonpool plant during the month in the indicated utilization.

§ 931.45 *Computation of the skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and for other obvious errors the reports of receipts and utilization for the pool plant(s) of each handler and shall compute the pounds of butterfat and skim milk in each class for such handler: *Provided,* That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water reasonably associated with such solids in the form of whole milk.

§ 931.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 931.45 the market administrator shall determine the classification of producer milk received at the pool plant(s) of each handler each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III milk the pounds of skim milk assigned to producer milk pursuant to § 931.41 (c) (3);

(2) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class III milk, the pounds of skim milk in other source milk received in the form of fluid milk products which were not subject to the Class I pricing provisions of an order issued pursuant to the act;

(3) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class III milk, the pounds of skim milk in other source milk other than that received in the form of fluid milk products;

(4) Subtract from the remaining pounds of skim milk in Class II milk and in Class III milk, in series beginning with Class III milk, an amount equal to such remainder, or the product obtained by multiplying the pounds of skim milk in producer milk by 0.05, whichever is less;

(5) Subtract from the remaining pounds of skim milk in each class in series beginning with Class III milk, the pounds of skim milk in other source milk received in the form of fluid milk products which are subject to the Class

I pricing provisions of another order issued pursuant to the act;

(6) Add to the pounds of skim milk remaining in Class II milk and in Class III milk, respectively, the pounds of skim milk subtracted from each class pursuant to subparagraph (4) of this paragraph;

(7) Subtract from the remaining pounds of skim milk in each class the skim milk in fluid milk products received from the pool plants of other handlers according to the classification of such products as determined pursuant to § 931.44 (a);

(8) Subtract from the remaining pounds of skim milk in Class III milk the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month: *Provided,* That if the pounds of skim milk in such inventory are greater than the remaining pounds of skim milk in Class III milk, the difference shall be subtracted from Class I milk; and

(9) Add to the pounds of skim milk remaining in Class III milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph and if the remaining pounds of skim milk in all classes exceed the pounds of skim milk contained in producer milk, subtract such excess from the remaining pounds of skim milk in series beginning with Class III. Any amount of excess so subtracted shall be called "overage".

(b) Butterfat shall be allocated in accordance with the same procedure prescribed for skim milk in paragraph (a) of this section.

(c) Determine the weighted average butterfat content of producer milk remaining in each class computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 931.50 *Class prices.* Subject to the provisions of §§ 931.51 and 931.52 the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* The Class I milk price shall be the price for Class I milk established under Federal Order No. 41, as amended, regulating the handling of milk in the Chicago, Illinois, marketing area, plus 15 cents.

(b) *Class II milk price.* The Class II milk price shall be the average of the basic or field prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the period from the 16th day of the preceding month through the 15th day of the current month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Plant Location

Amboy Milk Products Co., Amboy, Ill.
Borden Company, Dixon, Ill.
Borden Company, Sterling, Ill.
Carnation Company, Morrison, Ill.
Carnation Company, Oregon, Ill.
Carnation Company, Waverly, Iowa.
United Milk Products Company, Argo Fay, Ill.

(c) *Class III milk price.* The Class III milk price shall be the sum of the amounts computed pursuant to subparagraphs (1) and (2) of this paragraph.

(1) Subtract 6 cents from the Chicago butter price for the month and multiply the remainder by 4.2.

(2) From the simple average, as computed by the market administrator of the weighted averages of carlot prices per pound of nonfat dry milk solids, spray and roller process, respectively, in barrels for human consumption, f. o. b. manufacturing plants in the Chicago area as published for the month by the Department, subtract 6.5 cents and multiply the remainder by 7.913. If the Department does not publish the above stated price for nonfat dry milk solids there shall be used in lieu thereof the midpoint between the simple averages (using in each price series the midpoint of any price range as one price) as computed by the market administrator, of the weekly Chicago wholesale carlot prices per pound of nonfat dry milk solids in barrels for human consumption, spray and roller process, respectively, as reported within the month by the Department and 8.5 cents, rather than 6.5 cents, shall be deducted in making this computation.

§ 931.51 *Butterfat differentials to handlers.* For milk containing more or less than 3.5 percent butterfat, the class prices for the month calculated pursuant to § 931.50 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.140.

(b) *Class II price.* Multiply the Chicago butter price for the current month by 0.120.

(c) *Class III price.* Subtract 6 cents from the Chicago butter price for the current month and multiply the remainder by 0.120.

§ 931.52 *Location differentials to handlers.* For that milk which is received from producers at a pool plant located 50 miles or more from the Cedar Rapids and Iowa City, Iowa, City Halls, by the shortest hard surfaced highway distance as determined by the market administrator, and which is classified as Class I milk, the price specified in § 931.50 (a) shall be reduced by 10 cents for the first 65 miles or less and by 1.5 cents for each additional 10 miles or fraction thereof that such plant is from the nearer of the Cedar Rapids and Iowa City City Halls: *Provided,* That for the purpose of calculating the location differential adjustment applicable pursuant to this section, fluid milk products which are transferred between pool plants shall be assigned to any remainder of Class III milk and Class II milk in the transferee plant after making the calculations prescribed in § 931.46 (a) (5) and the comparable steps in (b) for such plant, such assignment to transferor plants to be made in sequence according to the location differential applicable to each plant, beginning with the plant having the largest differential.

§ 931.53 *Use of equivalent prices.* If for any reason a price quotation required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 931.60 *Producer-handler.* Sections 931.40 through 931.46, 931.50 through 931.52, 931.70, 931.71, and 931.80 through 931.88, shall not apply to a producer-handler.

§ 931.61 *Plants subject to other Federal orders.* The provisions of this part shall not apply to a distributing plant or a supply plant during any month in which such plant would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant is qualified as a pool plant pursuant to § 931.10 and a greater volume of fluid milk products is disposed of from such plant to retail or wholesale outlets and to pool plants in the Cedar Rapids-Iowa City marketing area than in the marketing area regulated pursuant to such other orders: *Provided,* That the operator of a distributing plant or a supply plant which is exempt from the provisions of this order pursuant to this section shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to § 931.30) and allow verification of such reports by the market administrator.

§ 931.62 *Handlers operating nonpool plants.* None of the provisions from §§ 931.44 through 931.52, inclusive, or from §§ 931.70 through 931.85, inclusive, shall apply in the case of a handler in his capacity as the operator of a nonpool plant, except that such handler shall, on or before the 13th day after the end of each month pay to the market administrator for deposit into the producer-settlement fund an amount calculated by multiplying the total hundredweight of butterfat and skim milk disposed of as Class I milk from such plant to retail or wholesale outlets (including sales by vendors and plant stores) in the marketing area during the month, by the rate determined pursuant to § 931.63.

§ 931.63 *Rate of payment on unpriced milk.* The rate of payment per hundredweight to be made by handlers on unpriced other source milk allocated to Class I milk shall be any plus amount calculated as follows:

(a) During the months of December through June, subtract from the Class I price adjusted by the Class I butterfat and location differentials applicable at a pool plant of the same location as the nonpool plant supplying such other source milk, the Class III price adjusted by the Class III butterfat differential; and

(b) During the months of July through November subtract from the Class I price f. o. b. such nonpool plant the uniform price to producers adjusted by the Class I butterfat differential.

DETERMINATION OF UNIFORM PRICE

§ 931.70 *Computation of value of milk for each handler.* The value of producer milk received during each month by each handler shall be a sum of money computed by the market administrator as follows:

(a) Multiply the pounds of milk in each class by the applicable class price and add together the resulting amounts;

(b) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 931.46 (a) (9) and the corresponding step of (b) by the applicable class prices;

(c) Add the amount obtained in multiplying the difference between the Class III price for the preceding month and the Class I price for the current month by the lesser of (1) the hundredweight of producer milk classified in Class III less shrinkage during the preceding month or (2) the hundredweight of milk subtracted from Class I pursuant to § 931.46 (a) (8) and the corresponding step of (b);

(d) Add an amount calculated by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 931.46 (a) (2) and (3) and the corresponding step of (b) by the rate of payment on unpriced milk determined pursuant to § 931.63 at the nearest nonpool plant(s) from which an equivalent amount of other source skim milk or butterfat was received: *Provided,* That if the source of any such fluid milk product received at a pool plant is not clearly established, such product shall be considered to have been received from a source at the location of the pool plant where it is classified.

§ 931.71 *Computation of uniform price.* For each of the months the market administrator shall compute a uniform price for producer milk of 3.5 percent butterfat content f. o. b. pool plants located within 50 miles of the City Hall of Cedar Rapids or Iowa City, as follows:

(a) Combine into one total the values computed pursuant to § 931.70 for all handlers who made the reports prescribed in § 931.30 for such month, except those in default of payments required pursuant to § 931.84 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of producer milk represented by the values included under paragraph (a) of this section is less or more, respectively, than 3.5 percent, an amount computed by multiplying such differences by the butterfat differential to producers, and multiplying the result by the total hundredweight of producer milk;

(c) Add an amount equal to the sum of the location differential deductions to be made pursuant to § 931.82;

(d) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund;

(e) Divide the resulting amount by the total hundredweight of producer milk included in these computations; and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section.

PAYMENT FOR MILK

§ 931.80 *Time and method of payment for producer milk.* Each handler shall make payment as follows:

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for milk received from him and for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, at not less than the uniform price computed in accordance with § 931.71, subject to the butterfat differential computed pursuant to § 931.81 and less location differential deductions pursuant to § 931.82.

(b) On or before the 12th day after the end of each month during which the milk was received, to a cooperative association for milk which it caused to be delivered to such handler from producers, if such cooperative association is authorized to collect such payments for its member producers and exercises such authority, an amount equal to the sum of the individual payments otherwise payable to such producers.

§ 931.81 *Butterfat differentials to producers.* The uniform price to be paid each producer shall be increased or decreased for each one-tenth of one percent which the butterfat content of his milk is above or below 3.5 percent, respectively, at the rate, rounded to the nearest one-tenth cent, of 0.120 times the Chicago butter price.

§ 931.82 *Location differentials to producers.* The uniform price to be paid producers for milk received at a pool plant located 50 miles or more from the Cedar Rapids and Iowa City, Iowa, City Halls, by the shortest hard-surfaced highway distance as determined by the market administrator shall be reduced by 10 cents for the first 65 miles or less and by 1.5 cents for each additional 10 miles or fraction thereof that such plant is from the nearer of the Cedar Rapids and Iowa City, City Halls.

§ 931.83 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 931.62, 931.84 and 931.86, and out of which he shall make all payments to handlers pursuant to §§ 931.85 and 931.86.

§ 931.84 *Payments to the producer-settlement fund.* On or before the 12th day after the end of each month, each handler shall pay to the market administrator the amount by which the value of milk for such handler pursuant to § 931.70 for such month exceeds the obligation pursuant to § 931.80 of such handler to producers for milk received during the month.

§ 931.85 *Payments out of the producer-settlement fund.* On or before the 12th day after the end of each month the market administrator shall pay to each handler the amount by which the obligation, pursuant to § 931.80, of such handler to producers for milk received during the month exceeds the value of milk for such handler computed pursuant to § 931.70: *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 931.80 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

§ 931.86 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due; and payment thereof shall be made on or before the next date for making payment set forth in the provisions under which such error occurred.

§ 931.87 *Expense of administration.* As his pro rata share of the expense of the administration of the order, each handler shall pay to the market administrator on or before the 12th day after the end of each month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to butterfat and skim milk contained in (a) producer milk, (b) other source milk at a pool plant which is allocated to Class I milk pursuant to § 931.46, and (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant not subject to the classification and pricing provisions of another order issued pursuant to the act.

§ 931.88 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 931.80 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from such producer (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 12th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of milk received by handlers from such producers during the month and to provide such producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall, in lieu of the deductions specified in paragraph (a) of this section, make such deductions as are authorized by such producers and, on or before the 12th day after the end of each month, pay over such deductions to the association rendering such such services.

§ 931.89 *Termination of obligations.* The provisions of this section shall apply

to any obligation under this subpart for the payment of money, irrespective of when such obligation arose, except an obligation involved in an action instituted before August 1, 1949, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this subpart, to make available to the market administrator or his representatives all books and records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transactions involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 931.90 *Effective time.* The provisions of this subpart, or any amendment to this subpart, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 931.91 *Suspension or termination.* The Secretary shall, whenever he finds this subpart, or any provision hereof, obstructs or does not tend to effectuate the declared policy of the act, terminate or suspend the operation of this subpart or any such provision of this subpart.

§ 931.92 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations hereunder the final accrual or ascertainment of which require further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 931.93 *Liquidation.* Upon the suspension or termination of provisions of this subpart, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated all accounts, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 931.100 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

§ 931.101 *Separability of provisions.* If any provisions of this subpart or its application to any person or circumstance is held invalid, the application of such provision and of the remaining provisions of this subpart to other persons or circumstances shall not be affected thereby.

[F. R. Doc. 57-5517; Filed, July 8, 1957; 8:48 a. m.]

[7 CFR Part 946]

[Docket No. AO-123-A21]

MILK IN LOUISVILLE, KY., MARKETING AREA

DECISION WITH RESPECT TO PROPOSED AMENDMENT TO TENTATIVE MARKETING AGREEMENT AND TO ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Louisville, Kentucky, on June 24, 1957, pursuant to notice thereof issued on June 18, 1957 (22 F. R. 4364).

The material issues on the record of the hearing relate to:

1. Providing pool plant status to a country plant operated by a cooperative association.

2. The need for immediate action by the Secretary with respect to issue number 1.

Findings and conclusions. The following findings and conclusions and the material issues are based on evidence presented at the hearing and the record thereof:

1. The definition of a pool plant should be changed to include a country plant operated by a cooperative association if 75 percent or more of the producer milk from members of such association is delivered to the pool plants of other handlers directly or by transfer by the association from its plant during the month or during each of the months of the immediately preceding period of October through February. Under the present provisions of the order, a country plant must ship at least 10 percent of its producer receipts to a city plant to qualify as a pool plant during any month of the period October through March. To qualify as a pool plant during each of the months of April through September, a country plant must have shipped more than 50 percent of its combined producer receipts to a city plant during the immediately preceding period of October through February.

The Falls Cities Cooperative Milk Producers' Association, a cooperative bargaining association representing more than 95 percent of the producers supplying the Louisville marketing area, is the sole agent responsible for marketing the milk of its producer members. In this connection, it performs the marketwide service of allocating milk supplies among handlers. Since March of this year, it has also diverted to nonpool plants for its own account reserve supplies of milk not received by other handlers. The present provisions of the order provide for the continuation of producer status for those producers whose milk is diverted to a nonpool plant for the account of a cooperative association. In diverting the milk of its producer members, the cooperative has been

faced with difficult disposal problems. It is particularly difficult to find satisfactory nonpool outlets for reserve milk during the flush production season, the time when reserve supplies in a fluid milk market are largest. Since March, the Cooperative has diverted increasing quantities of milk each month. The quantity ranged from about 464 thousand pounds in March to about 1.2 million pounds during the first 15 days of June. Effective June 15, an important market previously available to the Cooperative was lost. Since that time it has been necessary to dispose of reserve milk in distress outlets. The Cooperative may realize a gain or loss on the milk diverted for its account, depending upon whether the price received less the costs involved in diverting or transferring such milk is lower or higher than the order price for the particular utilization.

At the time of the hearing, the Falls Cities Cooperative Milk Producers' Association planned to have ready for operation, under their ownership, by July 1, 1957, a bulk holding plant which would qualify as a country plant under the order, provided it had met the delivery requirements of the order. The plant is to be used primarily for assembling and cooling milk in connection with the Association's program for handling the reserve milk of producer members. The Association has outlets available from which it can obtain considerably higher prices for the reserve milk handled by it provided the milk is cooled and assembled in quantities large enough to fill "over-the-road tankers." It is also anticipated that the operation of this plant will facilitate the allocation of fluid milk supplied to other handlers in the market and thus aid in the disposal of reserve supplies. The Association has already received orders for additional milk from some handlers, the filling of which is contingent upon the operation of its bulk holding plant.

The present order makes no provision for qualifying as a pool plant during the months of July through September of this year the plant to be operated by the Cooperative Association. If this plant is to be a pool plant during succeeding months, the present order specifies that it meet certain delivery requirements stated earlier herein. It is concluded that a country plant operated by a cooperative association which represents producers regularly associated with the Louisville market should be a pool plant without meeting specific delivery requirements. Such delivery requirements would impair the Association's ability to perform its functions as an equalization plant indicated above. Also, it would be uneconomical for the Association to receive the milk of its members at its plant and then transfer such milk to the pool plants of other handlers. It is concluded that the requirement that 75 percent or more of the milk of producer members be received during the month directly at the pool plants of other handlers or transferred by the Cooperative Association from its plant to the pool plants of other handlers is reasonable. Because of the seasonal nature of milk production, it is further concluded that a plant operated by a cooperative which meets the 75 percent standard during each of the months of October through February should be considered as a pool plant during the following months of March through September, beginning March 1958. This will assist in assuring that producers who are associated with the market during the short production season will retain their status as producers during the flush production season.

2. The due and timely execution of the function of the Secretary under the act imperatively and unavoidably requires the omission of a recommended decision by the Deputy Administrator, Agricultural Marketing Service, and the opportunity for exceptions thereto, on the above issue. The conditions set forth above are such that it is urgent that remedial action be taken as soon as possible. Delay beyond the minimum time required to make the attached order effective would aggravate the current problem of handling reserve supplies of producer milk under the order. Accordingly, the time necessarily involved in the preparation, filing, and publication of a recommended decision and exceptions thereto would make such relief ineffective. The propriety of omitting the recommended decision and opportunity of filing exceptions thereto was indicated on the record by both producers and handlers.

Rulings on proposed findings and conclusions. Rulings on proposed findings and conclusions are not necessary to this decision since neither briefs nor proposed findings and conclusions on the issues of the hearing were filed by interested parties.

General findings. (a) The tentative marketing agreement and the order as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk, as determined pursuant to section 2 of the act, are not reasonable in view of the prices of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Marketing agreement and order amending the order, as amended. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing agreement regulating the handling of Milk in the Louisville, Kentucky, marketing area" and "Order amending the Order, regulating the handling of Milk in the Louisville, Kentucky, marketing area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of May 1957 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order, regulating the handling of milk in the Louisville, Kentucky, marketing area, is approved or favored by producers, as defined under the terms of the order, as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Issued at Washington, D. C., this 2d day of July 1957.

[SEAL] TRUE D. MORSE,
Acting Secretary.

Order[1] Amending the Order Regulating the Handling of Milk in the Louisville, Kentucky, Marketing Area

§ 946.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agrciultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Louisville, Kentucky, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk, as determined pursuant to section 2 of the act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders have been met.

affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Louisville, Kentucky, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Delete the last word, "or," in § 946.9 (b).

2. Change the period at the end of § 946.9 (c) to a semicolon and add the word, "or," immediately after the semicolon.

3. Add paragraph (d) to § 946.9 immediately after paragraph (c) as follows:

(d) A country plant which is operated by a cooperative association and (1) 75 percent or more of the producer milk from members of such association is delivered during the month directly to the pool plant(s) of other handlers or transferred by such association to the pool plant(s) of other handlers or (2) such plant qualified as a pool plant pursuant to subparagraph (1) of this paragraph during each of the immediately preceding consecutive months of October through February.

[F. R. Doc. 57-5516; Filed, July 8, 1957; 8:47 a. m.]

[7 CFR Part 994]

PECANS GROWN IN GEORGIA, ALABAMA, FLORIDA, MISSISSIPPI, AND SOUTH CAROLINA

NOTICE OF PROPOSED TERMINATION

Notice is hereby given that termination is being considered, as of October 1, 1957, of the provisions of Marketing Agreement No. 111 and Marketing Order No. 94, regulating the handling of pecans grown in Georgia, Alabama, Florida, Mississippi, and South Carolina (7 CFR Part 994), effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.). This proposed action is predicated on the basis that continued operation of such marketing agreement and order will not, on and after October 1, 1957 tend to effectuate the declared policy of the aforesaid act.

Consideration will be given to any written data, views, or arguments pertaining to this proposed action which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C., not later than 30 days after publication of this notice in the FEDERAL REGISTER. Such communications should be field in triplicate.

The present marketing agreement and order was issued in September 1949 for the purpose of increasing trade and consumer acceptability of unshelled pecans and thus increasing returns to producers. This was to be accomplished through establishment of minimum grade and size requirements for pecans shipped outside the five-State area for sale in unshelled form. It was indicated that demand for unshelled pecans would be increased both as to the volume of pecans distributed inshell and the returns paid to the producers of such pecans.

Evidence now available to the Department indicates that operation of the marketing order in its present form is not accomplishing the objectives for which the program was promulgated.

The proportion of the pecan production in the five-State area which is shipped out of the area for inshell distribution has not increased during the period this program has been in operation. The volume of pecans shipped from the five-State area for inshell distribution averaged 17 percent of the production in the first three years of the program, declined thereafter and in the 1956–57 season is not expected to exceed 12 percent.

Pecans for inshell distribution graded and certified as to minimum quality failed, as a general rule, to return to producers prices in excess of those received for comparable or better pecans permitted to be disposed of free from such minimum quality requirements, such as for shelling and for inshell distribution within the production area. There is evidence that shellers purchasing on a meat content basis and truckers (particularly those operating near the border of the five-State area) paid for good pecans for shelling or, immediately outside the area, for pecans for inshell sale, prices equal to or better than those for pecans certified under this program. This is attributed to a tendency to pack "five-State pecans" for inshell sale at a level just meeting the minimum standard (U. S. Commercial with 75 percent by count meeting U. S. No. 1 quality) and to the objection of truckers to the delay and expense attached to obtaining inspection and complying with the program requirements.

Additional factors bearing on the proposed decision to terminate are: (1) The difficulty in obtaining compliance, without burdensome assessments for policing, when only a portion of the total pecan production is handled under the order, and (2) a recommendation from the executive committee of the Southeastern Pecan Growers Association, the major proponent of the program in 1949, that the program be terminated.

Dated: July 2, 1957.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F. R. Doc. 57-5515; Filed, July 8, 1957; 8:47 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Amdt. 1]

ALASKA

SHORESPACE RESTORATION ORDER NO. 447 AND SMALL TRACT CLASSIFICATION ORDER NO. 34

JULY 1, 1957.

By virtue of the authority contained in the Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a) as amended and pursuant to Delegation of Authority contained in section 2.9 (o), Order No. 541 of April 21, 1954, Bureau of Land Management, Shorespace Restoration Order No. 447 and Small Tract Classification Order No. 34 of September 27, 1950, as amended, is hereby amended as follows:

1. The land classified in paragraph 2, supra, for disposal as recreation sites under the terms of the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a), as amended, has subsequently been further subdivided and re-described. Land now described as lots 48 and 49 include 0.537 and 1.563 acres, respectively, of previously unclassified land. Shorespace Restoration Order No. 447 and Small Tract Classification Order No. 34 is hereby further amended to classify these additional parcels and to re-describe all of the lands involved as follows:

ANCHORAGE AREA

T. 19 N., R. 4 W., Seward Meridian Section 33, lots 48–56, inclusive; lot 64, W½SW¼NW¼SW¼.

Contains 32.78 acres.

2. This amendment shall become effective immediately.

L. T. MAIN,
Operations Supervisor.

[F. R. Doc. 57-5506; Filed, July 8, 1957; 8:45 a. m.]

MISSISSIPPI

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LAND

JULY 2, 1957.

The Office of the Regional Director, Fish and Wildlife Service, Department of the Interior, Peach Tree-Seventh Building, Atlanta 23, Georgia, has filed application, BLM 044621, for the withdrawal, of the land described below,

from all forms of application under public land laws, including mining laws but not the minerals leasing laws, subject to valid existing rights, for the use of the Bureau of Sports Fisheries and Wildlife, as a part of the Horn Island National Wildlife Refuge.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, Washington 25, D. C.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The land involved in the application is:

ST. STEPHENS MERIDIAN, MISSISSIPPI

Township 9 South, Range 6 West, St. Stephens Meridian
Section 27, lots 5 through 8;
Section 28, lots 5 through 10;
Section 29, lots 5 through 12;
Section 30, lots 11 through 14;
Section 33, lots 2, 3, and 4;
Section 34, lots 8 through 11.

Township 9 South, Range 7 West, St. Stephens Meridian
Section 19, lots 8 and 9;
Section 22, lots 11 through 18;
Section 23, lots 5 through 8;
Section 25, lots 11 through 16;
Section 26, lots 8 through 14;
Section 27, lots 2, 3, and 4.

Township 9 South, Range 8 West, St. Stephens Meridian
Section 23, lots 1 through 4;
Section 24, lots 1 through 8.

The area described containing in the aggregate 2403.22 acres.

E. J. CONOVER,
Acting Manager.

[F. R. Doc. 57-5507; Filed, July 8, 1957; 8:45 a. m.]

Office of the Secretary

[Order No. 2820]

DIRECTOR, OFFICE OF SALINE WATER

DELEGATION OF AUTHORITY RELATING TO CONTRACTS

JULY 1, 1957.

The Director, Office of Saline Water, is authorized to enter into, modify, or terminate such contracts as are provided for in section 2 of the Saline Water Act of July 3, 1952, as amended (66 Stat. 328; 69 Stat. 198; 42 U. S. C., 1952). This authority may not be redelegated; and it does not extend to research grants.

(Sec. 2, Reorg. Plan No. 3 of 1950; 5 U. S. C., 133z-15, note)

FRED A. SEATON,
Secretary of the Interior.

[F. R. Doc. 57-5524; Filed, July 8, 1957; 8:49 a. m.]

DEPARTMENT OF AGRICULTURE

Commodity Stabilization Service

UPLAND COTTON

NOTICE OF FURTHER REDELEGATION OF FINAL AUTHORITY BY TENNESSEE AGRICULTURAL STABILIZATION AND CONSERVATION STATE COMMITTEE

Section 722.829 (c) of the regulations pertaining to acreage allotments for the 1957 crop of upland cotton (21 F. R. 7817) provides that any authority delegated to a State Agricultural Stabilization and Conservation Committee by the regulations in §§ 722.817 to 722.829 (b) may be redelegated by the State committee. In accordance with section 3 (a) (1) of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1002) which requires that delegations of final authority be published in the FEDERAL REGISTER, there is set forth herein the redelegation of final authority made by the Tennessee Agricultural Stabilization and Conservation State Committee in addition to the redelegations previously published in the FEDERAL REGISTER (22 F. R. 127) which remain in effect. Shown below is the section of the regulations in which such authority appears and the person designated by name, to whom such authority has been redelegated.

TENNESSEE

Section 722.829 (b)—James W. McFarland.

Issued at Washington, D. C., this 3d day of July 1957.

[SEAL] WALTER C. BERGER,
Administrator,
Commodity Stabilization Service.

[F. R. Doc. 57-5547; Filed, July 8, 1957; 8:53 a. m.]

Forest Service

CERTAIN LANDS ACQUIRED UNDER TITLE III-BANKHEAD-JONES FARM TENANT ACT

SUITABILITY FOR NATIONAL FOREST PURPOSES

Pursuant to the requirement of Executive Order 10445, dated April 10, 1953 (18 F. R. 2069), except as to lands within the States of Arizona, California, Colorado, Idaho, Montana, New Mexico, Oregon, Washington, and Wyoming, all lands within the exterior boundaries of national forests which have been acquired through exchange since June 30, 1956, or that are in the process of being acquired through exchange by the Forest Service on behalf of the United States under authority of Title III of the Bankhead-Jones Farm Tenant Act, as amended, (7 U. S. C. 1010-1013), are hereby determined to be suitable for national forest purposes.

Dated: June 28, 1957.

[SEAL] RICHARD E. MCARDLE,
Chief, Forest Service.

[F. R. Doc. 57-5518; Filed, July 8, 1957; 8:48 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 8624]

WHITEHORSE FLYING SERVICE

NOTICE OF HEARING

In the matter of the application in Docket No. 8624, for the transfer of the foreign air carrier permit held by Whitehorse Flying Services to Pacific Western Airlines Ltd.

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that hearing in the above-entitled application is assigned to be held on July 16, 1957, at 10:00 a. m., e. d. s. t., in Room E-210, Temporary Building No. 5, 16th Street and Constitution Avenue NW., Washington, D. C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D. C., July 3, 1957.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 57-5538; Filed, July 8, 1957; 8:51 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 9369, 11298; FCC 57M-644]

AMERICAN CABLE AND RADIO CORP. ET AL.

ORDER CONTINUING HEARING CONFERENCE

In the matter of American Cable and Radio Corporation and its subsidiaries, All America Cables and Radio, Inc., The Commercial Cable Company and Mackay Radio and Telegraph Company, Inc., v. The Western Union Telegraph Company, Docket No. 9369. In the matter of RCA Communications, Inc., v. The Western Union Telegraph Company, Docket No. 11298; lawfulness of certain practices of Western Union under the International Formula.

The Hearing Examiner having under consideration a joint motion filed on July 2, 1957, on behalf of American Cable and Radio Corporation and RCA Communications, Inc., complainants in the above-entitled proceeding, requesting that the hearing conference therein now scheduled to be held on July 10, 1957, be postponed to an early date in October 1957, to meet the convenience of the Hearing Examiner; and

It appearing that sufficient "good cause" has been set forth in the said motion to justify a grant of the relief requested therein; and

It further appearing that the Western Union Telegraph Company, defendant, and the Commission's Common Carrier Bureau, the remaining parties to the proceeding, concur in the said request for a continuance;

It is ordered, This 2d day of July 1957, that the above motion be, and it is hereby granted, and that the hearing conference in the above-entitled proceeding is hereby continued until 10:00 o'clock a. m., on Thursday, October 3,

1957, in the offices of this Commission, Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-5530; Filed, July 8, 1957; 8:50 a. m.]

[Docket Nos. 10984, 11873; FCC 57M-631]

RCA COMMUNICATIONS, INC. v. WESTERN UNION TELEGRAPH CO.

ORDER CONTINUING HEARING

In the matter of RCA Communications, Inc., v. The Western Union Telegraph Company, Docket No. 10984; lawfulness of certain actions of defendant with respect to handling of certain traffic originating in Canada and destined to points in Asia and Oceania. RCA Communications, Inc., v. The Western Union Telegraph Company, Docket No. 11873; complaint for money damages.

On motion of Western Union, joined in by RCA Communications, Inc., American Cable and Radio Corporation and the Common Carrier Bureau of the Commission, *It is ordered,* This 1st day of July 1957, that hearing in the above-entitled matter, now scheduled for July 15, 1957. is continued to September 3, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-5531; Filed, July 8, 1957; 8:50 a. m.]

[Docket No. 11913; FCC 57M-643]

JOHN S. CHAVEZ ET AL.

APPLICATION FOR CONSTRUCTION PERMIT

In re application of John S. Chavez, Raul G. Amaya, Guadalupe Caballero, Salvador Villareal and Gabriel S. Chavez Yaleta, Texas, Docket No. 11913, File No. BP-10639; for construction permit.

It is ordered, this 2d day of July 1957, on the Hearing Examiner's own motion, that the hearing herein presently continued without date, be, and the same is hereby, set for July 9, 1957, at 9:00 A. M., in the offices of the Commission, Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-5532; Filed, July 8, 1957; 8:50 a. m.]

[Docket No. 11938 etc.; FCC 57M-633]

GOLD COAST BROADCASTERS ET AL.

ORDER SCHEDULING HEARING

In re applications of James C. Dean, C. Robert Clark and Charles W. Stone d/b as Gold Coast Broadcasters, Pompano Beach, Florida, Docket No. 11938, File No. BP-10631; Gold Coast Radio, Inc., Pompano Beach, Florida, Docket No. 11939, File No. BP-10782; Lawrence J. Plym, Pompano Beach, Florida, Docket No. 12029, File No. BP-11097; construction permits.

Pursuant to a pre-hearing conference with counsel held on this date in the above-entitled proceeding, *It is ordered,* This 1st day of July 1957, that the exchange of exhibits herein will be accomplished on September 30, 1957, and that the hearing will be held on October 14, 1957, at 10:00 o'clock a. m. at the Commission's offices in Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-5533; Filed, July 8, 1957; 8:50 a. m.]

[Docket No. 12025; FCC 57M-636]

JOSEPH E. YOUNG (KACT)

ORDER FOLLOWING PREHEARING CONFERENCE

In re application of Joseph E. Young (KACT), Andrews, Texas, Docket No. 12025, File No. BP-10910; for construction permit.

1. A prehearing conference in the above-entitled matter was held on July 2, 1957, at 10:00 a. m. in the Commission's offices at Washington, D. C. In view of the fact that at the appointed time only the Broadcast Bureau was represented, the Hearing Examiner recessed the prehearing conference for ten minutes to allow any absent parties to appear. At 10:10 a. m., no further appearance having been made, the Hearing Examiner went forward with the prehearing conference. The reporter was instructed to transcribe verbatim the contents of a letter from Raymond D. Hollingsworth (Station KRAY), Amarillo, Texas, the said letter being postmarked Amarillo, June 28, 1957. This letter, among other things, contained the following statement, "I would like to withdraw my objection to this grant." KRAY had previously been made a party to this proceeding because there was reason to inquire whether the granting of the instant application would cause interference to KRAY.

2. Counsel for the Broadcast Bureau took the position that the desire of KRAY to withdraw from the proceeding (and it will be construed herein that KRAY has withdrawn from the proceeding) does not obviate the necessity of a hearing on the application under the issues contained in the hearing order released by the Commission on May 20, 1957.

3. Section 1.813 of the Commission's rules empowers the presiding officer to request any party "* * * to submit suggestions in writing, for the purpose of considering, among other things, the following matters:

(1) The necessity or desirability of simplification, clarification, amplification or limitation of the issues;

(2) The possibility of stipulating with respect to facts;

(3) The procedure at the hearing;

(4) The limitation of the number of witnesses;

(5) The necessity or desirability of prior mutual exchange between or among the parties of prepared testimony and exhibits; * * *

4. It occurs to the Hearing Examiner that the applicant may have construed the Hollingsworth letter (assuming that he received a copy of it) as finalizing this matter, and that consequently he concluded that he was not required to appear at the prehearing conference. Be that as it may, in order to save possible undue expense and inconvenience to the applicant which a trip to Washington might occasion at this time, the Hearing Examiner will hereinafter order the applicant and the Broadcast Bureau to submit suggestions in writing as per the quoted portion of § 1.813, supra. It is the desire of the Hearing Examiner that the suggestions be submitted at the earliest possible date so that further steps in this proceeding may be expeditiously determined. (The parties are reminded that the hearing date is July 25, 1957, and that, normally, no hearings will be held in August.)

Accordingly, it is ordered, This 2d day of July 1957, that the parties submit, to be received by the Commission on or before July 10, 1957, suggestions in writing pursuant to § 1.813 of the Commission's rules; and

It is further ordered, That a further prehearing conference will be held at 10: 00 a. m. on July 12, 1957, in the Commission's offices at Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-5534; Filed, July 8, 1957; 8:50 a. m.]

[Docket No. 12068; FCC 57M-640]

FLORENCE BROADCASTING CO., INC.

ORDER SCHEDULING HEARING

In re application of Florence Broadcasting Company, Inc., Brownsville, Tennessee, Docket No. 12068, File No. BP-10850; for construction permit.

It is ordered, This 2d day of July 1957, that Annie Neal Huntting will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on September 23, 1957, in Washington, D. C.

Released: July 3, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-5535; Filed, July 8, 1957; 8:50 a. m.]

[Docket Nos. 12069, 12070; FCC 57M-638]

KIRKWOOD BROADCASTING CO. AND ST. CHARLES COUNTY BROADCASTING CO.

ORDER SCHEDULING HEARING

In re applications of James R. Roberts, Robert D. Rapp and Martha M. Rapp d/b as Kirkwood Broadcasting Company,

Kirkwood, Missouri, Docket No. 12069, File No. BP-10863; St. Charles County Broadcasting Company, St. Charles, Missouri, Docket No. 12070, File No. BP-11066; for construction permits.

It is ordered, This 2d day of July 1957, that Thomas H. Donahue will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on September 23, 1957, in Washington, D. C.

Released: July 3, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-5536; Filed, July 8, 1957; 8:50 a. m.]

[Docket No. 12071; FCC 57M-639]

RADIO HAWAII, INC. (KPOA)

ORDER SCHEDULING HEARING

In re application of Radio Hawaii, Inc. (KPOA), Honolulu, Hawaii, Docket No. 12071, File No. BP-10786; for construction permit.

It is ordered, This 2d day of July 1957, that Basil P. Cooper will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on September 30, 1957, in Washington, D. C.

Released: July 3, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 57-5537; Filed, July 8, 1957; 8:50 a. m.]

FOREIGN CLAIMS SETTLEMENT COMMISSION

STAMPING OF SECURITIES SUBJECT TO CLAIMS

PUBLIC ANNOUNCEMENT

Effective immediately the Foreign Claims Settlement Commission will place on the face of certain foreign bonds and securities forming the basis of claims before the Commission, under Title III of the International Claims Settlement Act of 1949, as amended, a stamped legend, or notice with respect to any award made on such claim prior to the certification of such award to the Secretary of the Treasury for payment.

Where the award pertains to both the principal obligation and accrued interest the face of the instrument will be stamped with the following legend:

Transfer of this instrument confers no rights in the award made with respect thereto by the Foreign Claims Settlement Commission of the United States under Claims No. ------, filed pursuant to Public Law No. 285, 84th Congress.

With respect to Bulgarian, Hungarian or Rumanian bonds, awards will in most cases, issue only with respect to interest coupons since the statute limits claims based upon obligations of these countries which became payable prior to September 15, 1947. In many cases the principal obligations were not then due. In these cases, the face of the bonds will be stamped although the awards will relate only to such coupons as became payable prior to that date. The stamp to be affixed in such cases will read as follows:

Pursuant to Public Law No. 285, 84th Congress, an award has been made by the Foreign Claims Settlement Commission of the United States under Claims No. ------, with respect to interest coupons maturing prior to September 15, 1947, attached to this instrument. Transfer of this instrument or of any attached interest coupons confers no rights in such award.

The purpose of these legends is to give notice that an award has been made by the Foreign Claims Settlement Commission of the United States based in whole or in part upon the instrument so stamped. It should be noted that an award may be made by the Commission which includes losses other than those represented by such instruments. Additionally, the legends indicate that transfer of the instrument in and of itself confers no rights in the awards made with respect thereto since the Commission will certify the awards for payment by the Secretary of the Treasury only in favor of the original claimants whose claims are favorably determined.

Payment of awards will be made by the Secretary of the Treasury from the appropriate claims fund—the Bulgarian Claims Fund, the Hungarian Claims Fund, the Rumanian Claims Fund, and the Soviet Claims Fund—depending upon the government determined to be liable. These funds are derived from the net liquidated proceeds of property of the Governments of Bulgaria, Hungary, Rumania, and the Soviet Government, or certain of their nationals either vested by or transferred to the United States for the payment of American claims.

Insofar as claims, including those based upon securities are concerned, the statute directs the Secretary of the Treasury to make payment in full of the principal amount of each award of $1,000 or less, and with respect to awards in excess of $1,000, to make subsequent payments from time to time in ratable proportions depending upon the balance of the funds available for distribution.

The term "award" is defined in the statute to mean the aggregate of all awards certified in favor of the same claimant and payable from the same fund. For example, if a claimant has a claim based upon bonds and another claim arising out of contract or tort, both of which are determined to be valid against a particular fund, the total of both awards granted would be considered a single award for the purpose of certification to and payment by the Secretary of the Treasury.

There is no assurance that any award will be paid in full. Similarly, the extent to which any award will be paid from the funds available cannot presently be determined. Accordingly, the statute provides that payment of any award under a claim against Bulgaria, Hungary, Rumania, and Russia will not extinguish the claim unless such payment is for the full amount of the claim, as determined by the Commission. The rights of any such claimant with respect to the unpaid balance of his claim are thus preserved in the event provision is made in the future for payment of the unsatisfied portion of the claim.

In order to provide adequate notice, the Commission will maintain a register of all bonds and securities, appropriately identified in numerical sequence, with respect to which awards are made. Such register will be available for inspection. Notice of the fact that such a register exists and is available for inspection is published in the FEDERAL REGISTER concurrently with the publication of this announcement and has been posted on the bulletin board of the Commission. Where no award is made the bonds or securities involved will neither be listed nor stamped.

A number of bonds and securities have been returned to the claimants upon request, during the course of the proceedings before the Commission. In such cases, a stamp has been placed on the instruments in question indicating that a claim has been filed under the act. Where an award issues on any such claim the instruments will also bear the legend indicated above. However, in the event any such claim is denied, the claimant may, at his election return such instruments for the purpose of having such fact noted on the face of the instrument. Inasmuch as a denial merely indicates that the claimant in question is ineligible for an award, this fact should not be construed as having any effect on the validity of the instruments. The Commission will issue no rulings on the validity of any such instrument.

Should it appear upon inspection of the register that a particular security is not listed, it would mean either that no claim had been filed on the basis of such security, or that, if filed, it had been denied for reasons unrelated to the validity of the security. On the other hand, the listing of a security in the register does not mean that the full amount of the award has been or will be paid by the Secretary of the Treasury. Payments on account of awards will be made in accordance with the provisions of the act as outlined herein.

In this connection, attention is invited to section 307 of the act which limits the amounts of awards in certain cases. Where an award is made in favor of a claimant other than the national of the United States to whom the claim originally occurred the award cannot exceed the amount of the actual consideration last paid for the claim either prior to January 1, 1953, or between that date and the filing of the claim, whichever is less.

The Commission urges that interested persons avail themselves of the opportunity of inspecting the register.

By the Commission.

Dated: July 2, 1957.

ANDREW T. MCGUIRE,
General Counsel.

[F. R. Doc. 57-5519; Filed, July 8, 1957; 8:48 a. m.]

REGISTRATION OF SECURITIES SUBJECT TO AWARDS

PUBLIC NOTICE

Notice is hereby given that the Foreign Claims Settlement Commission has established a register listing all securities with respect to which awards are made under the International Claims Settlement Act of 1949, as amended by Public Law 285, 84th Congress, approved August 9, 1955 (22 U. S. C. 1641a–q).

The register will list such securities in numerical sequence and according to the foreign government obligated thereunder.

This register will be kept current and will be available for public inspection during usual business hours at the office of the Commission, Tariff Building, Seventh and E Streets NW., Washington 25, D. C.

By the Commission.

Dated: July 2, 1957.

ANDREW T. MCGUIRE,
General Counsel.

[F. R. Doc. 57–5520; Filed, July 8, 1957; 8:48 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G–8708 etc.]

PAN AMERICAN PETROLEUM CORP. ET AL.

NOTICE OF SEVERANCE AND CONTINUANCE

JULY 2, 1957.

In the matters of Pan American Petroleum Corporation, et al., Docket No. G–8708, et al.; Humble Oil & Refining Company, Docket No. G–10367.

Notice is hereby given that the application filed by Humble Oil & Refining Company in Docket No. G–10367 in the above-entitled proceeding and scheduled for a hearing to be held on July 18, 1957, at 9:30 a. m., e. d. s. t., is hereby severed therefrom and continued for hearing at a subsequent date to be set by further notice.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 57–5510; Filed, July 8, 1957; 8:46 a. m.]

[Docket No. G–12823]

TEXAS GAS TRANSMISSION CORP.

ORDER SUSPENDING CERTAIN PROPOSED REVISED TARIFF SHEETS, ACCEPTING OTHERS AND PROVIDING FOR HEARING

JULY 2, 1957.

On June 3, 1957, Texas Gas Transmission Corporation (Texas Gas) tendered for filing, and proposed to become effective July 4, 1957, Original Sheets Nos. 68–BB, 70–A and 113; First Revised Sheets Nos. 68–A, 68–B, 68–C, 68–E and 68–F; Second Revised Sheets Nos. 7, 9, 19, 21, 25, 27, 45, 47, 71, 79–I and 79–J; Third Revised Sheets Nos. 1, 2, 4, 5, 11, 29, 33, 49, 51, 53, 55, 61, and 63; Fourth Revised Sheets Nos. 17, 23, 31, 35, 37, 41, 57, 59, 65, 67, 69, 70, 73 and 74; Fifth Revised Sheets Nos. 39 and 43; and Sixth Revised Sheets Nos. 110, 111, and 112, all to its FPC Gas Tariff, Second Revised Volume No. 1.

The tariff sheets would effect an increase of $3,964,000 (4.4 percent) in company's jurisdictional rates and charges, over the rates and charges currently being collected by it subject to refund in Docket No. G–10751, based on sales volumes for the year ended April 30, 1957, as adjusted. Texas Gas claims that the proposed increase in rates and charges are primarily required due to increases in gas purchase costs from other pipeline suppliers, and independent producers, which are in fact largely subject to suspension or collection subject to refund, and increased operating expenses. The proposed increase is based upon a 6½ percent rate of return with associated income taxes and an allocation of costs which departs from past Commission practices.

All of the foregoing tendered tariff sheets, except Second Revised Sheets Nos. 45 and 47, and Third Revised Sheets Nos. 49 and 51, which purportedly relate to the sale of gas for resale for industrial use only, are subject to suspension by this Commission. With respect to these latter revised tariff sheets, which are not subject to suspension by this Commission, Texas Gas states that it is its policy to place the rate schedule relating to its resale industrial service into effect on a date contemporaneous with that at which its firm service rates and charges become effective, whether subject to refund or otherwise.

It is further stated in this regard that should the Commission determine that the proposed changes pertaining to jurisdictional service are required to be suspended, Texas Gas "* * * hereby authorizes the secretary of the Commission to change the proposed effective date of July 4, 1957, presently inscribed on Second Revised Sheet Nos. 45, 47, (and Third Revised Sheets) 49 and 51, and to insert the date which will coincide with the end of the suspension period, if any, of the other changes submitted herewith."

Additionally, Texas Gas requests that if the use of the proposed rates and charges subject to the jurisdiction of this Commission is suspended, the period of suspension be limited to the terminal date of October 26, 1957, in lieu of the normal expiration date corresponding to the maximum five-month suspension period provided under the Natural Gas Act, on the basis that otherwise it will be unable to recover future claimed increases in its gas purchase costs.

The request of Texas Gas for a shortened suspension period in order to permit it to recoup future increases in gas purchase costs does not appear to be warranted in view of the fact that the large proportion of the increased revenues through use of the proposed rates and charges is due to the claimed 6½ percent rate of return; that the rates and charges now in effect subject to refund in Docket No. G–10751 are based also on a claimed rate of return of 6½ percent and that in any event, certain of the increases in its gas purchase costs which it seeks to recover would not become effective until a date subsequent to the time at which the increased rates and charges here proposed would become effective under five months suspension.

The increased rates and charges proposed in the foregoing revised sheets tendered by Texas Gas have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful. In addition, eleven customer companies served by Texas Gas filed protests to the filing in which suspension of the proposed changes is either requested or implied.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing, pursuant to the authority contained in sections 4 and 15 of such act, concerning the lawfulness of the rates, charges, classifications, and services of Texas Gas, FPC Gas Tariff, Second Revised Volume No. 1, as proposed to be amended by Original Sheets Nos. 68–BB, 70–A and 113; First Revised Sheets Nos. 68–A, 68–B, 68–C, 68–E and 68–F; Second Revised Sheets Nos. 7, 9, 19, 21, 25, 27, 45, 47, 71, 79–I, and 79–J; Third Revised Sheets Nos. 1, 2, 4, 5, 11, 29, 33, 49, 51, 53, 55, 61 and 63; Fourth Revised Sheets Nos. 17, 23, 31, 35, 37, 41, 57, 59, 65, 67, 69, 70, 73 and 74; Fifth Revised Sheets Nos. 39 and 43; and Sixth Revised Sheets Nos. 110, 111, and 112 and that the aforementioned rate filings except Second Revised Sheets Nos. 45 and 47 and Third Revised Sheets Nos. 49 and 51 be suspended as hereinafter ordered and the use thereof be deferred pending hearing and decision thereon, except as they may become effective as provided by the Natural Gas Act.

(2) The request of Texas Gas that the proposed effective date inscribed by it on Second Revised Sheets, Nos. 45 and 47 and Third Revised Sheets Nos. 49 and 51 to its FPC Gas Tariff, Second Revised Volume No. 1 be changed to coincide with the termination of the suspension period of the other changes enumerated in (1) above, as hereinafter provided and the request of Texas Gas for waiver of the requirements contained in § 154.22 of the Commission's regulations, and, to that end, permission to file the foregoing revised sheets as provided under § 154.51 of the regulations, should be granted, subject to the terms and conditions hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), a public hearing be held at a date to be designated by notice from the Secretary of the Commission, concerning the lawfulness of the rates, charges, classifications, and services contained in Texas Gas' FPC Gas Tariff as proposed to be amended by the revised tariff sheets tendered for filing, as set forth in paragraph (1) above.

(B) Pending such hearing and decision thereon, Original Sheets Nos. 68–BB, 70–A and 113; First Revised Sheets Nos. 68–A, 68–B, 68–C, 68–E and 68–F;

Second Revised Sheets Nos. 7, 9, 19, 21, 25, 27, 71, 79–I and 79–J; Third Revised Sheets Nos. 1, 2, 4, 5, 11, 29, 33, 53, 55, 61 and 63; Fourth Revised Sheets Nos. 17, 23, 31, 35, 37, 41, 57, 59, 65, 67, 69, 70, 73 and 74; Fifth Revised Sheets Nos. 39 and 43; and Sixth Revised Sheets Nos. 110, 111 and 112 to Texas Gas Transmission Corporation's FPC Gas Tariff, Second Revised Volume No. 1, are hereby suspended and the use thereof deferred until December 4, 1957, and until such further time as they may be made effective in the manner prescribed by the Natural Gas Act.

(C) The request of Texas Gas Transmission Corporation that the proposed effective date inscribed by it on Second Revised Sheets Nos. 45 and 47 and Third Revised Sheets Nos. 49 and 51 to its FPC Gas Tariff, Second Revised Volume No. 1 be changed to coincide with the termination of the suspension period of the other changes as provided in (B) above, and its request, pursuant to, and in accordance with the provisions contained in § 154.51 of the Commission's regulations, for permission to file the aforementioned revised tariff sheets is hereby granted: *Provided,* That Texas Gas Transmission Corporation shall, at such time as it moves to place into effect the tariff sheets hereby suspended, specifically request that Second Revised Sheets Nos. 45 and 47 and Third Revised Sheets Nos. 49 and 51 be made effective concurrently.

(D) Interested state commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 57–5526; Filed, July 8, 1957; 8:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70–3600]

WEST PENN POWER CO.

ORDER GRANTING APPLICATION REGARDING ISSUANCE AND SALE AT COMPETITIVE BIDDING OF PRINCIPAL AMOUNT OF FIRST MORTGAGE BONDS

JULY 2, 1957.

West Penn Power Company ("Company"), a subsidiary of The West Penn Electric Company, a registered holding company, has filed an application and an amendment thereto pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 ("act") and Rule U-50 thereunder regarding the following proposed transactions:

The Company proposes to issue and sell at competitive bidding, pursuant to Rule U-50, $20,000,000 principal amount of First Mortgage Bonds, Series Q __ percent, due July 1, 1987. It is expected that a public invitation for bids will be issued on or about July 3, 1957. Each bid shall specify the coupon rate (which shall be a multiple of ⅛ percent) to be borne by the bonds, and the price (exclusive of accrued interest) to be paid to the Company for the bonds, which shall be not less than 100 percent nor more than 102¾ percent of the principal amount.

The bonds will be issued under a First Mortgage, dated March 1, 1916, between the Company and The Chase Manhattan Bank, as Trustee, as supplemented and as to be supplemented by a Supplemental Indenture to be dated July 1, 1957.

The net proceeds will be used to provide in part for expenditures in connection with the construction program of the company and its subsidiaries which it is estimated will amount to $61,000,000 during 1957 and 1958.

The issuance of the New Bonds has been authorized by the Pennsylvania Public Utility Commission and no other State commission or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Due notice of the filing of the application having been given in the manner prescribed by Rule U-23 (Holding Company Act Release No. 13498) and no hearing having been requested of or ordered by the Commission; and the Commission observing no basis for the imposition of terms and conditions other than those prescribed in Rules U-24 and U-50 and finding that the applicable provisions of the Act and the Rules promulgated thereunder are satisfied and that the application as amended should be granted forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that the application as amended be, and the same hereby is, granted forthwith, subject to the terms and conditions prescribed in Rules U-24 and U-50.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 57–5511; Filed, July 8, 1957; 8:46 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 3, 1957.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 33965: *Substituted service—Motor-rail-motor—Pennsylvania Railroad.* Filed by The Eastern Central Motor Carriers Association, Inc., for The Pennsylvania Railroad Company and interested motor carriers. Rates on freight, loaded in or on trailers and transported in substituted service on railroad flat cars, between Baltimore, Md., on one hand, and Chicago and East St. Louis, Ill., Cleveland, Ohio, and Indianapolis, Ind., on the other, and between Kearny, N. J., and Philadelphia, Pa., on one hand, and Detroit, Mich., and Indianapolis, Ind., on the other.

Grounds for relief: Motor truck competition.

Tariff: Supplement 2 to The Eastern Central Motor Carriers Association, Inc., Agent, ICC 15.

FSA No. 33966: *Substituted service—Motor-rail-motor—Boston and Maine, Delaware and Hudson, and Erie Railroads.* Filed by The Eastern Central Motor Carriers Association, Inc., Agent, for interested rail and motor carriers. Rates on freight, loaded in trailers and transported in substituted service on railroad flat cars, between East Cambridge, Holyoke, or Worcester, Mass., on one hand, and Hammond, Ind., on the other.

Grounds for relief: Motor truck competition.

Tariff: Supplement 2 to The Eastern Central Motor Carriers Association, Inc., Agent, ICC 15.

FSA No. 33967: *Grain, products and feed, between, and from and to points in southern territory.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on grain, grain products, and animal or poultry feed, carloads, (a) between points in southern territory, (b) between points in southern territory, on the one hand, and specified points in Illinois and Indiana, on the other, (c) and between points in southern territory and Columbus, Ohio, groups.

Grounds for relief: Short-line distance formula, grouping, and circuitous routes.

Tariffs: Supplement 188 to Agent C. A. Spaninger's ICC 1325.

FSA No. 33968: *Transit rates—Grain and feed in southern territory.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on coarse grain, grain products, and animal or poultry feed, carloads, transited enroute from origin to destination, between points in southern territory.

Grounds for relief: Short-line distance formula via transit point, grouping, and circuitous routes.

Tariff: Supplement 7 to Agent C. A. Spaninger's ICC 1579.

FSA No. 33969: *Substituted service—Motor-rail-motor—Boston and Maine, Delaware and Hudson and Pennsylvania Railroads.* Filed by The Eastern Central Motor Carriers Association, Inc., Agent, for interested rail and motor carriers. Rates on freight, loaded in trailers and transported, in rail substituted service, on railroad flat cars, between East Cambridge and Worcester, Mass., on one hand, and Chicago and East St. Louis, Ill., Indianapolis, Ind., Detroit, Mich., and Cincinnati, Ohio, on the other.

Grounds for relief: Motor truck competition.

Tariff: Supplement 2 to The Eastern Central Motor Carriers Association, Inc., Agent, ICC 15.

FSA No. 33970: *Substituted service—Motor-rail-motor—Pennsylvania Railroad.* Filed by The Eastern Central Motor Carriers Association, Inc., Agent, for interested rail and motor carriers. Rates on freight, loaded in trailers and transported, in substituted rail service, on railroad flat cars, between Toledo, Ohio, on the one hand, and Baltimore, Md., Harrisburg and Philadelphia, Pa., and Kearny, N. J., on the other.

Grounds for relief: Motor truck competition.

Tariff: Supplement 2 to The Eastern Central Motor Carriers Association, Inc., Agent, ICC 15.

FSA No. 33971: *Brick and clay tile—Colorado points to points in Minnesota.* Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on brick and clay tile, carloads, from Canon City, Denver, Golden, Pueblo, and Trinidad, Colorado, to Albert Lea, Duluth, Minneapolis, and other specified points in Minnesota.

Grounds for relief: Short-line distance formula and circuitous routes.

Tariff: Supplement 120 to Agent Prueter's ICC 3686.

FSA No. 33972: *Butadiene—Borger and Odessa, Tex., to Institute, W. Va.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on Butadiene, tank-car loads from Borger and Odessa, Tex., to Institute, W. Va.

Grounds for relief: Market competition and circuitous routes.

Tariff: Supplement 107 to Agent Kratzmeir's ICC 4150.

FSA No. 33973: *Coarse grains—Western points to southwestern points.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on coarse grains, and articles taking same rates, carloads, from specified points in western trunkline territory to destinations in southwestern territory.

Grounds for relief: Short-line distance formula and circuitous routes.

Tariffs: Supplement 6 to Agent Kratzmeir's ICC 4237 and one other tariff.

FSA No. 33974: *Barytes—Cartersville and Emerson, Ga., to Lake Charles, La.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on barite (barytes), ground, carloads, from Cartersville and Emerson, Ga., to Lake Charles, La.

Grounds for relief: Circuitous routes.

Tariff: Supplement 82 to Agent C. A. Spaninger's ICC 1299.

FSA No. 33975: *Paper stock between Illinois and southern territories.* Filed by R. G. Raasch, Agent, for interested rail carriers. Rates on paper, waste or scrap, carloads, between points in Illinois territory, on the one hand, and points in southern territory, on the other.

Grounds for relief: Short-line distance formula and circuitous routes.

Tariff: Supplement 8 to Agent Raasch's ICC 880.

FSA No. 33976: *Crude rubber—Louisville, Ky., to points in the Southwest.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on rubber, artificial guayule, natural, neoprene, or synthetic, crude (not latex), straight or mixed carloads, from Louisville, Ky., to specified points in Arkansas, Missouri, and Oklahoma.

Grounds for relief: Short-line distance formula and circuitous routes.

Tariffs: Supplement 92 to Agent Kratzmeir's ICC 3923 and two other tariffs.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 57-5522; Filed, July 8, 1957; 8:49 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), Part 522 of the regulations issued thereunder (29 CFR Part 522), and Administrative Order No. 414 (16 F. R. 7367), special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 522. The effective and expiration dates, occupations, wage rates, number or proportion of learners and learning periods for certificates issued under general learner regulations (§§ 522.1 to 522.11) are as indicated below; conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.20 to 522.24, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Ace Dress Co., Inc., Harrington, Del.; effective 6-18-57 to 6-17-58 (junior Miss dresses).

Blakely Manufacturing Corp., Blakely, Ga.; effective 7-4-57 to 7-3-58 (washable service garments.).

C-D Sportswear Corp., Monsey Avenue and Ash Street, Scranton, Pa.; effective 6-21-57 to 6-20-58 (men's and boys' jackets).

Dillon Manufacturing Co., Dillon, S. C.; effective 6-30-57 to 6-29-58 (ladies' cotton housedresses).

Frackville Pajamas, Inc., Broad Mt. Avenue and Oak Streets, Frackville, Pa.; effective 6-24-57 to 6-23-58 (men's and boys' pajamas and nightshirts).

Gary Co., Inc., Gallatin, Tenn.; effective 6-18-57 to 6-17-58 (men's dress shirts).

Helena Garment Co., West Helena, Ark.; effective 6-23-57 to 6-22-58 (junior dresses).

Laurens Shirt Corp., Hillcrest Drive, Laurens, S. C.; effective 6-27-57 to 6-26-58 (men's dress and sport shirts).

Model Sportswear, Inc., 305 Holland Street, Shelbyville, Tenn.; effective 6-30-57 to 6-29-58 (men's and boys' sportswear).

The Moyer Co., 18 North Walnut Street, Youngstown, Ohio; effective 6-22-57 to 6-21-58 (men's slacks).

Pacific Undergarment Co., Inc., 288 Plymouth Avenue, Fall River, Mass.; effective 6-21-57 to 6-20-58 (ladies' cotton nightgowns).

Penn State Coat and Apron Manufacturing Co., Broadway and Radnor Streets, Clifton Heights, Pa.; effective 6-20-57 to 6-19-58 (shorts).

Reliance Manufacturing Co., Thayer, Mo.; effective 6-20-57 to 6-19-58 (ladies' cotton and rayon dresses).

J. H. Stern Garment Co., Inc., Seven Valleys, Pa.; effective 6-20-57 to 6-19-58 (children's dresses).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number or proportion of learners authorized are indicated.

Calico Lane Dress Co., 9 School Street, Jermyn, Pa.; effective 6-21-57 to 6-20-58; five learners (ladies' garments).

Fayette Garment Co., Inc., Broadway and Radnor Streets, Clifton Heights, Pa.; effective 6-20-57 to 6-19-58; 10 learners (men's and boys' washable trousers).

Mid-South Industries, Inc., Hackleburg, Ala.; effective 6-22-57 to 6-21-58; 10 learners (boys' sport shirts).

Ronnie Dress, Inc., 94-96 East Main Street, Wilkes-Barre, Pa.; effective 6-18-57 to 6-17-58; eight learners (women's dresses).

Summit Sportswear, 44 West Ludlow Street, Summit Hill, Pa.; effective 6-21-57 to 6-20-58; five learners (misses' and ladies' blouses).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Dee Vee Garment Manufacturing Co., Stanley, Va.; effective 7-1-57 to 12-31-57; 40 learners (men's and boys' dress slacks).

Delta Shirt Manufacturing Co., Inc., Bayard, N. Mex.; effective 6-21-57 to 12-20-57; 50 learners (sport shirts).

Farah of Marfa, Inc., Marfa, Tex.; effective 6-24-57 to 12-23-57; 50 learners (denim dungarees).

Cigar Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.80 to 522.85, as amended).

General Cigar Co., Inc., 1018 Poeyfarre Street, New Orleans, La.; effective 6-24-57 to 6-23-58; authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes, in the occupations of cigar machine operating and packing cigars retailing for more than 6 cents, each for a learning period of 320 hours; and machine stripping for a learning period of 160 hours. A rate of 80 cents an hour will be paid in these three occupations.

Glove Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.60 to 522.65, as amended).

The Eagle Glove & Garment Co., 215 North Franklin Street, Muncie, Ind.; effective 6-19-57 to 12-18-57; authorizing the employment of five learners for normal labor turnover purposes, in the occupation of sewing machine operator for a learning period of 160 hours at the rate of 77½ cents an hour (work gloves and shop aprons).

Hansen Glove Corp., Clintonville, Wis.; effective 6-24-57 to 6-23-58; 10 percent of the total number of factory production workers engaged in the authorized learner occupations (knit fabric dress gloves).

Ross Glove Co., 1032 Alabama Avenue, Sheboygan, Wis.; effective 6-24-57 to 6-23-58; 10 percent of the total number of workers engaged in authorized learner occupations (leather dress gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.40 to 522.43, as amended).

Bisher Hosiery Mills, Inc., Denton, N. C.; effective 6-25-57 to 6-24-58; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Broadway Hosiery Mills, 53 Burton Street, West Asheville, N. C.; effective 6-20-57 to 12-19-57; 20 learners for plant expansion purposes (seamless).

Locust Hosiery Mills, Inc., Locust, N. C.; effective 6-21-57 to 6-20-58; five learners for normal labor turnover purposes (seamless).

Newland Knitting Mills, Newland, N. C.; effective 6–17–57 to 12–16–57; 25 learners for plant expansion purposes (supplemental certificate) (seamless).

Van Raalte Co., Inc., Athens, Tenn.; effective 7–9–57 to 7–8–58; 5 percent of the total number of factory production workers for normal labor turnover purposes (full-fashioned and seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.30 to 522.35, as amended).

Campbell & Helmich, Inc., 320 South Franklin Street, Boyertown, Pa.; effective 6–19–57 to 6–18–58; five learners for normal labor turnover purposes (women's lingerie).

Claxton Manufacturing Co., Inc., Claxton, Ga.; effective 6–20–57 to 12–19–57; 30 learners for plant expansion purposes (knitted underwear).

Fine Gauge Knitwear Co., 6611 Euclid Avenue, Cleveland, Ohio; effective 6–24–57 to 6–23–58; five percent of the total number of factory production workers for normal labor turnover purposes (cashmere sweaters).

Haleyville Textile Mills, Inc. No. 2, Hartselle, Ala.; effective 6–24–57 to 6–23–58; five learners for normal labor turnover purposes (undergarments and sleepwear).

J. H. Rohrer Textile Co., Inc., New Ringgold, Pa.; effective 6–18–57 to 6–17–58; five learners for normal labor turnover purposes (cotton knit underwear).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.11, as amended).

The following learner certificates were issued to the companies listed below manufacturing miscellaneous products. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated.

Belfast Canning Co., Belfast, Maine; effective 6–17–57 to 12–16–57; authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes, in the occupation of sardine packer for a learning period of 160 hours at the rates of 80 cents an hour for the first 80 hours and 85 cents an hour for the remaining 80 hours (canned sardines).

William B. Kessler, Inc., Pleasant and Tilton Streets, Hammonton, N. J.; effective 7–2–57 to 1–1–58; authorizing the employment of 5 percent of the total number of factory production workers for normal labor turnover purposes, in the occupations of sewing machine operator, hand sewer, final presser, and finishing operations involving hand sewing, each for a learning period of 480 hours at the rates of 85 cents an hour for the first 280 hours and 90 cents an hour for the remaining 200 hours (men's suits, sport coats, and slacks).

Naylor Marine Products, 3616 Curlew Street, San Diego, Calif.; effective 6–20–57 to 12–19–57; authorizing the employment of two learners for normal labor turnover purposes, in the occupation of hand and machine operators for a learning period of 240 hours at the rates of 80 cents an hour for the first 140 hours and 90 cents an hour for the remaining 100 hours (sea shells, sea shell novelties).

Stinson Canning Co., Birch Harbor, Maine; effective 6–24–57 to 12–23–57; authorizing the employment of 9 learners for normal labor turnover purposes, in the occupation of sardine packer for a learning period of 160 hours at the rates of 80 cents an hour for the first 80 hours and 85 cents an hour for the remaining 80 hours (canned fish).

The following special learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated:

Gordonshire Knitting Mills, Inc., Cayey, P. R.; effective 6–3–57 to 12–2–57; authorizing the employment of 40 learners for plant expansion purposes, in the occupations of: (1) Loopers and menders, each for a learning period of 960 hours at the rates of 50 cents an hour for the first 480 hours and 56 cents an hour for the remaining 480 hours; and (2) examiners and knitters, each for a learning period of 240 hours at the rate of 50 cents an hour (seamless hosiery).

Island Knitting Mills, Inc., San Lorenzo, P. R.; effective 6–10–57 to 11–1–57; authorizing the employment of 10 learners for plant expansion purposes, in the occupations of machine stitching and finishing operations involving hand sewing, each for a learning period of 320 hours at the rates of 58 cents an hour for the first 160 hours and 68 cents an hour for the remaining 160 hours (supplemental certificate) (full-fashioned men's sportshirts).

Each learner certificate has been issued upon the employer's representation that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9.

Signed at Washington, D. C., this 27th day of June 1957.

MILTON BROOKE,
Authorized Representative of the Administrator.

[F. R. Doc. 57–5509; Filed, July 8, 1957; 8:46 a. m.]